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JUSTICE

Vol.38 **ACTUALITÉS - REPORT** No.1

CANADIAN CRIMINAL JUSTICE ASSOCIATION - ASSOCIATION CANADIENNE DE JUSTICE PÉNALE

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IN CRIMINAL JUSTICE

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P7 | INTERVIEW - ENTREVUE
JOHN L. HILL

The JUSTICE REPORT contains information of value to Association readers and the public interested in matters related to the administration of justice in Canada. Opinions expressed in this publication do not necessarily reflect the Association's views, but are included to encourage reflection and action on the criminal justice system throughout Canada.

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L'ACTUALITÉS JUSTICE renferme des renseignements utiles aux lecteurs de l'Association et au public qui s'intéressent aux questions relatives à l'administration de la justice au Canada. Les opinions qui sont exprimées ne reflètent pas nécessairement les vues de l'Association, mais y figurent afin d'encourager à réfléchir et à agir sur la justice pénale dans tout le Canada.

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EDITORIAL

IRVING KULIK
CCJA Executive Director

This issue of the *JUSTICE Report* features an interview by our editor Nancy Wright with the author of *Pine Box Parole* John L. Hill. Long-time Ontario defence counsel now retired and a newly released author, Mr. Hill was for many years a prodigious critic of Corrections Canada – particularly on prisoner rights and the use of segregation. He continues to pursue these subjects and shares his pessimism regarding the new Structured Intervention Units (SIUs).

The use of segregation in corrections has been a frequent subject for CCJA's Policy Review Committee over the years. Although now replaced by the SIU programme, there remains significant scepticism about the continuing isolation of prisoners.

In the same vein we welcome back Howard Sapers, previous Federal Correctional Investigator and current Chair of the Structured Intervention Units Implementation Advisory Panel. Mr. Sapers discusses findings of the Panel's first official report in the second part of his three-part series.

We welcome Mike Cook, President of the Manitoba Criminal Justice Association, with his discussion of MCJA's Annual Crime Prevention Breakfast in Winnipeg each November. We encourage all those living in the greater Winnipeg area to consider attending in 2023 (see **mcja.ca**). The life history and rehabilitation of the main speaker in 2022, Mr. Will Gault, recall the emotional story voiced by Roberto Diaz at our recent Congress Awards presentation. We also encourage our other affiliates and/or members to share upcoming events and highlights of crime prevention activities.

Roberto's story, co-written with Doug Heckbert, appears here as **More Chances to Change** in the launch of a new section in the *JUSTICE Report*. Doug promotes this initiative with his **Call for Real-Life Stories from the Canadian Criminal Justice System**, and we thank him for accepting the role of Section Editor.

The Canadian Institute for the Administration of Justice presents a bilingual article on discussions of dignity and decarceration at CIAJ's 46th annual conference. We continue a very successful Young Researcher series with **Police Body Cameras – The Ethics of Police Misconduct**, MRU student Miranda Henderson's exploration of ethical issues police may face in carrying out their daily duties.

In **Waco, Jonestown, Instagram: Deprogramming the World's Largest Cults**, Megan Davidson reminds us of the potential for social media to create cult-like movements, while Sarah Borbolla Garcés discusses the benefits of a criminology student association.

Finally, we thank Nick Jones and John Winterdyk for kind words about researcher and professor Rick Ruddell who recently passed away. Having had the opportunity to exchange with Rick during the planning of our 2015 Congress in Regina, CCJA extends heartfelt condolences to his family, friends, colleagues, and students. Volume 65.1 of the *Canadian Journal of Criminology and Criminal Justice* will present a book review Rick submitted last fall.

Hoping for an early spring.

ÉDITORIAL

IRVING KULIK
Directeur général de l'ACJP

Ce numéro de l'*Actualités JUSTICE* comprend une entrevue de notre éditrice Nancy Wright avec l'auteur de *Pine Box Parole* John L. Hill. Maintenant à la retraite et auteur fraîchement sorti, Hill a été avocat de la défense (Ontario) et aussi un prodigieux critique du Service correctionnel du Canada – notamment concernant les droits des prisonniers et le recours à l'isolement. Il poursuit ces sujets et partage son pessimisme à l'égard des nouvelles Unités d'intervention structurée (UIS).

Le recours à l'isolement en milieu correctionnel a souvent été abordé par le Comité d'examen des politiques de l'ACJP au fil des ans. Bien que maintenant remplacé par le programme UIS, il reste un scepticisme important quant à l'isolement continu des prisonniers.

Dans le même ordre d'idée, nous accueillons de nouveau l'ancien enquêteur correctionnel fédéral Howard Sapers, président actuel du Comité consultatif sur la mise en œuvre des unités d'intervention structurée. Ici, dans la deuxième partie de sa série en trois parties, M. Sapers discute des conclusions du premier rapport officiel du Comité.

Nous souhaitons la bienvenue au président de la Manitoba Criminal Justice Association, Mike Cook, qui parle du déjeuner annuel de prévention du crime de la MCJA à Winnipeg chaque novembre. Nous encourageons tous ceux dans la grande région de Winnipeg à envisager d'y participer en 2023. L'histoire de la vie et la réhabilitation de l'orateur principal (2022), M. Will Gault, évoque le l'histoire émouvante exprimée par Roberto Diaz lors de notre récente remise des prix du Congrès. Nous invitons tous nos affiliés / membres à partager leurs événements et faits saillants des activités de prévention du crime.

L'histoire de Roberto, coécrite avec Doug Heckbert, apparaît ici dans le lancement d'une nouvelle section de l'*Actualités JUSTICE*. Doug fait la promotion de cette initiative en recueillir de récits de la vie réelle du système de justice pénale canadien, et nous le remercions d'avoir accepté le rôle d'éditeur de section.

L'Institut canadien d'administration de la justice présente un article bilingue sur les discussions sur la dignité et la décarcération à la 46e conférence annuelle de l'ICAJ. Nous poursuivons une série très réussie de jeunes chercheurs avec un article par une étudiante de Mount Royal University, Miranda Henderson. Elle explore les enjeux éthiques auxquels la police font faces dans l'exercice de ses fonctions quotidiennes.

Aussi dans la section jeunes chercheurs, Megan Davidson nous rappelle le potentiel des médias sociaux pour créer des mouvements culturels, tandis que Sarah Borbolla Garcés discute des avantages d'une association étudiante en criminologie.

Enfin, nous remercions Nick Jones et John Winterdyk pour leurs aimables paroles au sujet de Rick, un chercheur récemment décédé. Ayant eu l'occasion d'échanger avec Rick pendant la planification de notre congrès de 2015 à Regina, le CCJA offre ses plus sincères condoléances à sa famille, ses amis, ses collègues et ses étudiants. Le volume 65.1 de la *Revue canadienne de criminologie et de justice pénale* publiera une recension de livre soumis par Rick l'automne dernier.

Espérant un printemps précoce.

CREDIT: GARY MULCAHEY

CCJA Interview with John L. Hill —*PINE BOX PAROLE*

NANCY WRIGHT
JUSTICE Report Editor-In-Chief

In this CCJA Interview, John L. Hill (2022)—a former Canadian defence attorney who practiced and taught prison law until his retirement, defending some of Canada's most violent killers—discusses his recent book, Pine Box Parole (Durvile & UpRoute, 2022), in which he suggests that Terry Fitzsimmons (aka, a 'natural born killer') would never have killed anyone had it not been for his extensive time in solitary, violence by guards and abuses by other inmates. Hill considers the Fitzsimmons case important because it brought the exploration of mental torture to the forefront in Canada. The author reports having strived throughout his career, along with dozens of colleagues, to take up the cause of prisoner rights for more humane conditions. He congratulates many whose work helped to prevent abuses in our correctional systems over the years, in particular that of the national network of prison law lawyers with the Canadian Prison Law Association. This Interview with John L. Hill offers a clear, first-hand account of the brutality and other forms of violence found in Canadian prisons and a critique of the new Structured Intervention Units, the widely criticized system that replaced solitary confinement in Canadian prisons (CSC) under Bill C-83 (2019). Among other facts in Pine Box Parole, many readers will likely not have realized how most defense lawyers are blithely unaware of the extent of the practices of cruelty, violence, and black market drug sales that seem to characterize the Canadian penitentiary system. Mr. Hill also reflects on the origins and implications of the thin blue line and his coining, in Pine Box Parole, of a new meaning for the word "justice" as a "concept that involves the authoritative imposition of social norms". The CCJA thanks Mr. John L. Hill for this candid interview.

CCJA: ***John L. Hill, please tell our readers about your own path, and how you came to build a criminal defence around solitary confinement for Terry Fitzsimmons.***

Q.1—John L. Hill:
I grew up in a small town. Becoming an advocate for prisoner's rights I now see was a 3-step (possibly 4-step) process. The first was getting an education.

My working-class family could not afford to send their kids to university. The thought of one day becoming a lawyer never crossed my mind. But with the advent of the Canada Student Loans Plan my career options widened considerably. No one in my family had ever attended university. Now I would have that opportunity.

In 1965, I was off to Queen's University. I completed an Honours B.A. in Politics and stayed on to do an M.A. I loved the university environment and the constant questioning of established ideas. I considered continuing on to complete a PhD in Political Science as well.

Things changed after a roommate asked me to do the LSAT exams. His girlfriend promised a home-cooked meal if I would agree. Money was tight and the bribe proved effective. I did not study or prepare for this exam and was surprised to see those showing up to write it exhibiting every manifestation of nervousness. I just didn't care. Maybe that's why it came as a shock when I received my LSAT results showing I scored in the top 5%. I stayed on at Queen's to do my law degree.

My parents were delighted that I had the prospects for a lucrative career path. They were even more delighted when I was hired to article with the prestigious law firm Siskinds in London, Ontario. I thoroughly enjoyed the work and the staff at Siskinds. I was hopeful to be invited back to the firm to do litigation. The offer I did receive was to return as an associate to practice corporate-commercial law. I declined the offer.

The day after finishing my 6-month Bar Admission Course in Toronto and I being called to the Bar,

I returned to London, rented space above a real estate office and began my practice. Starting one's own business was stressful. However, the benefits included taking on interesting cases and devising strategies all on my own. I developed a reputation amongst those found not guilty by reason of insanity held at the St. Thomas Psychiatric Hospital. Counselling clients, appearing before an administrative Board of Review and examining detailed case files was rewarding and while most of the work was on Legal Aid, I was able to pay my bills.

During the period I married, adopted a dog and volunteered with the London Humane Society. This would be step 2 in my evolution. Involvement with this organization was probably crucial in the development of attitudes I would take into my legal career. Eventually I was elected to Chair the Society's Board. At the time, the Humane Society also was contracted by the City of London to provide animal control. Lots of dogs were seized and kept in cages for weeks on end. After about 6 weeks being kept alone in a cage without social contact, the dogs deteriorated to the point of having to be euthanized. I was appalled by this and convinced the Board to cancel our city contract and become a "kill-free" shelter and waiving adoption fee for dogs about to suffer the ill-effects of isolation.

But the long hours building a practice and the excessive amount of time at the shelter took its toll on my marriage. Things seemed to have hit rock-bottom emotionally for me when I got a call from Professor Ron Price at Queen's. He said there were good reports of the work I was doing at the psychiatric hospital and asked if I would be interested taking on the job of Director of the Correctional Law Project. I would be teaching a small group of second- and third-year law students the ins and outs of prison law. I decided to return to Kingston. Thus, began step 3.

I had just nicely settled into my new academic career when things exploded at Kingston Penitentiary. The place was on the verge of riot. Inmates were regularly being carted off to solitary cells in the prison administration's frantic efforts to maintain control. I had developed a network of prisoner informants who kept me advised of the abuses that were taking place to maintain control.

I set up a meeting in Ottawa with Solicitor General Perrin Beatty to affect a negotiated peace. Eventually, the government gave in and agreed to the inmate demands. Ostensibly conditions at the prison returned to normal. However, the abuses of which I learned remained with me. I knew that my life's work now had to be devoted to fixing what I now knew to be a badly broken system.

After my contract at Queen's was at an end, I accepted a new contract at the University of Windsor. I continued to be in contact with prisoners and even attending parole hearings and negotiating with prison administration on their behalf.

I realized I had to make it my full-time occupation. I quit my job at Windsor and bought a house in Cobourg where I could do prison law full time from my home office.

If there was a 4th step it would be my involvement with Terry Fitzsimmons and writing about it. After leaving university teaching, I received a call from Terry Fitzsimmons. He had been released from Kingston Penitentiary after spending 6 years in solitary confinement. Shortly thereafter he absconded from his residence in Kingston and breached the conditions of his release. He hid out in Toronto's gay district and went on a spree of bank robberies and murders in Toronto, Montreal and Ottawa. He turned himself in to police and made a full confession. Then he decided to get a lawyer.

I expected his only defence was in arguing the ill-effects of solitary confinement. I recalled my experiences with dogs kept isolated at the shelter. Then, by chance I caught an interview with Dr. Stuart Grassian, a Harvard Psychiatrist and Professor talking about the mental torture of solitary in his study of California's Pelican Bay Institution.

I flew to Boston, interviewed Dr. Grassian and formulated a novel defence. For the first time, Dr. Grassian's research would come to the attention of the court. Making that story publicly available is part of that career evolution. I found the public was interested in such stories. Although retired as a practicing lawyer, I can still have a hand in helping shape public opinion in the matter of prisons and how our criminal and correctional systems can be improved.

Q.2

Preamble: Your analysis of Canadian Corrections makes a strong case that Canadian "prisons and the ways prisoners are treated creates mental imbalance". However, *Pine Hill Parole* also goes well beyond the 'evils' of solitary confinement to give

readers a clear, first-hand account of the brutality and other forms of violence that you say characterize Canadian prisons.

For example, Terry Fitzsimmons learned to "keep [his] defences up" in prison by linking "up with one of the more experienced cons to look out for him" because he had been scared of prison rape: "When I got into prison, I was just 18, five and a half feet tall, 98 pounds, blond hair, green eyes—just a little cutie. A week later, I got fucked. "Looking back on it, I guess it was just part of the initiation process. By this time, I had learned to keep my trap shut. The other cons knew I could be solid after that. So, it was horrible to experience at the time but ultimately it was all for the best" (p. 62).

CCJA: ***Related to the injustices being carried out in jails and prisons described in Pine Box Parole, in your opinion what is the impact of such prison-inflicted trauma on CSC's rehabilitation mandate, recidivism and, by extension, public safety?***

Q.2—John L. Hill:
Everyone I expect thinks that brutality occurs within prisons. So, when people like me speak up against it, I think it is human nature to disregard our criticisms as biased and overlooking the necessity of keeping order in our jails. But here is a comment I received from a former correctional officer who read my book and spoke in his own words about conditions in the prison in which he worked:

> *"I know the trouble solitary confinement caused people; I was assigned to the "hole team" at Warkworth when I first started. I was involved in a lot of situations; lots of fights, slashing, suicides, I was stabbed twice once pretty seriously. I was also on the IERT which later was just a joke. We occasionally were told to "tune up" cons that were acting up in the hole. We would hog tie inmates with shackles and handcuffs and leave them, put hockey helmets on them sometimes backwards so they could not see. If they were good, we would unchain them to use the cell toilet. I would have to say probably all of my incidents in the hole most were caused by the environment and guards who thought they were tough. I was a social worker working with young offenders prior to becoming a guard so it was difficult at times to make adjustment to my skills when dealing with the inmates. I was taught by old, experienced guards with military backgrounds and farm experience. Good people but pretty rough and would take no shit! There was good and bad to this but I still think CSC has not found the "happy medium" yet! I often thought if I was in the hole, I would turn really bad and welcome the opportunity to hook an asshole guard. Sad but true.*
>
> *As a guard I really had no Idea of the legal process and implications with inmates especially like Terry Fitzsimmons. I was always told that Inmate lawyers were "con lovers". As my career progressed over the years, I learned that probably half or maybe more than half of the inmates should haven't even have gone to prison!"*
> (Former correctional officer, testimonial)

Although there are numerous exceptions, prisons are occupied largely by young men. Many have come from a street environment where gangs persist and live by the code that the strongest survive. Prisons are also places where drugs, alcohol, money and gambling are not supposed to exist. Through various devious methods, gambling and times of getting high carry on with alternatives including sexual services taking the place of monetary currency.

Living under such intense conditions where one's life and safety is under constant threat, changes one emotionally, and not always for the better. Society accepts and sympathizes with soldiers or police officers who find their lives changed by what we now call PTSD. Yet prisoners are released to the street and expected to live as normal citizens. Many are released lacking ordinary life skills such as how to open a bank account. The very fact that prisoners emerge from penitentiary hoping to find a job have their hopes dashed when many potential employers require applications stating the potential employee has no criminal record or assure that the person is "bondable." Without a job or a support network, it is not surprising to see many of them return to crime. Returning to society, especially for inmates who have been locked away for many years and have become institutionalized, is sometimes as (or even more) difficult as going to prison in the first place.

One recently released prisoner once told me, "People just see my crime and not me". While we preach rehabilitation and "paying one's debt to society", society seems to see that debt as bearing a criminal interest rate. It never gets paid off.
In most cases, we do not want people who get involved in crime to be in our neighbourhoods. When offenders are released from prison and reoffend,

who's to blame. If those of us on the outside become enraged and make it impossible for a released offender to be reintegrated with the community, we all bear some responsibility. However, we trust that our Correctional Service will also do its part in rehabilitating offenders such that they are "street-worthy" upon discharge from prison. If we simply expect that prisons are for punishment and not reformation and continue to uphold laws to "get tough on crime", then, once again, we should take partial blame for making our streets less safe.

Q3

Preamble: In his Foreword to *Pine Box Parole*, Raphael Rowe declares that authoritarian practices including solitary confinement live on ("even in Canada, but under the new name "Structured Intervention Units), mostly because it is something most people have never experienced nor could contemplate experiencing. There is simply no public outcry for reform. It goes by different names in different jurisdictions: isolation units, special handling or housing units (SHU), supermax cells, management control units, security threat management units, protective custody, or permanent lockdown. Most prisoners just refer to it as 'The Hole'. The names may be different, but conditions are remarkably similar…" (pp. ix-xiv).

CCJA: ***From your book Pine Hill Parole, please speak to our readers about similarities between Canada's Structured Intervention Units (SIUs) and use of the banned Solitary Confinement they replaced, including who is accountable and who provides oversight.***

Q.3—John L. Hill:

I wish I could say that once the British Columbia court found solitary confinement to be unconstitutional, that ended the practice. The government's position was to appeal the *B.C. Civil Liberties* case. Ultimately, paying lip service to the court ruling, the federal government supposedly did away with solitary confinement and introduced Structured Intervention Units (SIUs).

In Canadian prisons, the technical term for solitary confinement is "administrative segregation." The United Nations formulated what has become known as the Mandela rules as minimum standards for the treatment of prisoners. The United Nations, to put it simply, decreed that spending more than 15 days in isolation was torture. The British Columbia Court found that prolonged and indefinite segregation violated liberty rights under section 7 of the Charter and an Ontario court held that segregation over 15 days amounted to cruel and unusual punishment and violated section 12 of the Charter.

The passing of Bill C-83 in the first session of the 42nd Parliament was supposed to make the standards for administrative segregation in Canadian prisons Charter-compliant while honouring international obligations in the treatment of prisoners.

It seemed as though the establishment of Structured Intervention Units was the solution. The Correctional Service of Canada boasted that the new regime would allow inmates the opportunity for a maximum of four hours each day outside of their cell where they could engage in programs and activities and be in contact with a chaplain, Elder or spiritual adviser. For two of those hours, prisoners so confined could have the opportunity for meaningful human contact including program participation and access to cultural and spiritual practices. Inmates were to receive several offers per day for time out of their cell.

Most significantly, there was to be meaningful oversight on the use of the new procedure. Two external oversight bodies were to be established: an Independent External Decision Maker (IEDM) to review cases on an ongoing basis and an Implementation Advisory Panel (IAP) to assess operations and advise the Minister of concerns.

The result, according to CSC was a drastic reduction in admissions to administrative segregation. In 2015-16 there were 6,788 admissions. That number dropped to 2,267 in 2020-21. Seemingly, things were improving.

However, a report by criminologists Jane Sprott and Anthony Doob painted a different picture. They pointed out that the IAP ceased to exist in 2020 and had not been re-established or renewed in any other form. In terms of abiding by the requirement for meaningful human contact, the report stated: "It would appear to us that, using the commonly accepted UN definitions of solitary confinement and torture, Canada has serious problems with each. As the West Coast Prison Justice Society suggests with the title they gave their November 2020 report, Canada has 'Solitary by Another Name' It also has what the Mandela Rules refer to as Torture by another name."

Former Correctional Investigator Howard Sapers was appointed to head a 9-member review panel to assess how compliant the Correctional Service was in implementing the SIU system. Included in the Sapers panel study was the overrepresentation of minority groups. The report noted that 75% of women housed in SIUs on February 13, 2022 were Indigenous even though their percentage of the female prison population was 49% and only 4.2% of women in Canada. More than half of all SIU placements lasted more than 15 days. Sixty percent of these "long-stay" prisoners missed their 4-hour allotments three of every four days spent in isolation.

A Globe and Mail article written by Patrick White on November 2, 2022, quotes Dalhousie University law professor Adelina Iftene as saying, "It shows that solitary confinement is still very much in place in Canada. The report makes it clear that over half the placements in Structured Intervention Units meet the definition of solitary confinement."

The Sapers Report also questioned the operations of the IEDMs. Training for their members was weak and their oversight was limited. CSC often failed to report if a recommendation of an IEDM was followed. Even though an IEDM could call for a prisoner's release after 60 days in isolation, a recommendation to do so was made in only 5 per cent of cases.

The Globe and Mail quoted Sapers commenting that "CSC has put a tremendous amount of effort and resources into creating these units. That effort itself is not enough. My experience with CSC suggests better oversight is required."

Q4

Preamble: In your book *Pine Box Parole*, you state that "Prisons are not much different than when [you] first became involved with the system in the 1980s" and that "Most criminal defence lawyers lack other than cursory knowledge of what goes on after a client is convicted" (p.144).

CCJA: ***By the time he killed himself in 1995 you had already concluded that CSC created a murderer in Terry Fitzsimmons. You, as a respected defence lawyer, also had extensive testimonial evidence of the 'domestic abuse' (to summarize the treatment) being experienced by provincial and federal prisoners (and staff, especially female) as a 'normal' part of incarceration. With all due respect, why did you wait 27 years to go public with this?***

Q.4—John L. Hill:

My writing a book in 2022 that explores practices of cruelty, even torture, in the 1990's may suggest that nothing else has transpired. The question implies I have been silent on prison abuse issues for 27 years. I beg to differ.

Solitary confinement is but one of numerous abuses that have been ongoing for many years. I have attended numerous conferences in Canada and abroad where abuses have been addressed. The problem, as I see it, is that it is academics lecturing to academics. If real change is required, let's start talking about these abuses to average Canadians and get them involved.

My practice of representing federal and provincial prisoners has been ongoing for years. I have strived, as have dozens of my colleagues who have taken up the cause of prisoner rights, to ensure more humane conditions. Some cases I brought have been high profile such as bringing suit against the Peterborough Police Services Board for publicizing the expected arrival of a sex offender hoping to live in the community. The publicity outraged the public and made reintegration into the community impossible. Some of my cases have been successful, even though they seem trivial to the general public, such as bringing suit against the Correctional Service of Canada for its failure to provide proper-fitting shoes for an inmate. Some of my cases have been precedent setting such as obtaining a judgment on proper parole board procedures when an inmate is to be detained until warrant expiry date. Mostly my cases have been mundane such as assisting a transgender inmate who identified as female to obtain makeup at the male prison's canteen. I expect these cases mirror the successes and failures of my colleagues.

The relatively small cadre of prison law lawyers that constitutes the Canadian Prison Law Association has been working tirelessly over the years to prevent abuses in our correctional systems. They form a national network of lawyers who are supportive of one another and expose abuses as they find them.

The Terry Fitzsimmons case is indeed a case I lost, if one considers having one's client end up in prison rather than go free a loss. What the Fitzsimmons case did was to present the work of pioneers in the exploration of mental torture to the forefront. The work of people such as Dr. Grassian was featured in later cases and reports such as the Arbour Report

into abuses at the Prison for Women and in the B.C. Civil Liberties case.

My concern is that not enough is being done in our law schools to expose students to the issues in this area. Many graduates are looking for lucrative careers. Taking up a cause that is not as financially rewarding is definitely a deterrent to the advancement of human rights in this area. To make matters worse, Legal Aid is tightening up across the country.

Most criminal lawyers have no knowledge what happens after conviction if the client is incarcerated. Worse yet, most judges have little recognition of what lies ahead when a carceral sentence is imposed. My decision to write a book about prisoners and prison conditions in a non-academic manner was to go directly to the public who seldom see this aspect of our criminal justice system. Sure, there have been many conferences where the issues are discussed in an academic fashion but this amounts to little more than preaching to the choir. If we want to change our system, it is high time we took the discussion into the public realm.

Progress is being made and I cheer on those who are taking up the fight.

Q.5
Preamble: In *Pine Box Parole*, you coin a new meaning for the word 'justice', as a "concept that involves the authoritative imposition of social norms". You "include the word 'authoritative' because no one could ever consider vigilantism as justice", since " Mob rule leads to excess and perhaps the opposite of what a society would consider appropriate" (p. 4).

CCJA: ***In what ways do solitary confinement and other forms of carceral violence illustrated in your book Pine Box Parole suggest the existence of a thin blue line not only in Corrections but in Canadian society as well, and how is this related to Canada's history and its public educational systems?***

Q.5—John L. Hill:
When we speak of the "Thin Blue Line" it should stand for the idea that law enforcement acts as the barrier (or "line") between the community they protect and lawlessness. There is also the notion that correctional officers who are in daily contact with prisoners represent a thin blue line ensuring that the public is protected from those we assume pose a threat to our safety.

I hesitate to use that term because it connotes racism or militarism. The actual phrase was popularized by Los Angeles police Chief William Parker who used the phrase many times in the 1950s.

Parker was responsible for turning the LAPD from a scandal-ridden department into a militaristic-style service that eventually, according to a 2015 L.A. Times article, saw officers conducting proactive policing by using harassing tactics against those they deemed to be suspicious, usually Black and Latino young men. Parker himself made a number of racist comments against these communities while chief. The thin blue line has since been used by a number of groups in the United States, including at the Unite the Right white supremacist rally in Charlottesville, Va., in 2017.

In Canada, the Correctional Service of Canada has attempted to tone down the militaristic dress and attitude that marked the uniform and demeanour of its officers following World War II. Under CSC Commissioner Ole Ingstrup, a new tone was to be set where guards would not be clad in military-like garb and would have more contact with prisoners and engage in conversation. It used to be an accepted norm that one side would not speak to the other. Obviously, there are bound to be frictions when inmates and their captors do not see eye to eye. Guards with weapons and the ability to exact increased punishment sometimes conflict with prisoners and groups of prisoners also armed with makeshift weapons. The interaction is often violent and disastrous.

I think that what we see going on in prisons, and in the rest of society for that matter, is a morality play: Good v. Evil. In the outside world we see police officers accused of criminal behaviour dealt with much more deferentially than an average citizen accused of the same crime. For the most part when we speak of the thin blue line in corrections, we are referring to the intransigence the Ministry takes in admitting error and covering abuses. I refer back to the statement I quoted from a correctional officer – that from time to time it was necessary to give an inmate a "tune up." The offending guards do not see themselves as inflicting pain on other human beings. They are imposing the force of Good on people who have done Evil. Unfortunately, not enough is done to sanction this behaviour. When occasional problems manifest themselves, human nature relies on "the way we have always done things in the past." Disciplining adults is difficult. Any attempt at

making prisoners comply with rules can no longer result in corporal punishment as in days gone by. But punishment that mutilates peoples' minds is not visibly seen as brutality. Thus, even while solitary confinement is outlawed, it is easy to overlook punishments that are akin to it. Suspicion of carrying drugs can result in extended periods in dry cells, especially difficult for women who might not be released until after their menstrual cycles.

At inquests, it is not uncommon for the main witnesses to be the CSC administration and the guards. I recall attending one inquest where the main focus was preventing a coroner's jury from placing any blame for an inmate's death by overdose on CSC actions.

I have sometimes been of the belief that prison walls are as much for keeping out the public's knowledge of what goes on inside prisons as they are to keep the inmates in. Unfortunately, our public educational system reinforces the notion that good always triumphs over evil with little discussion that norms and mores change over time.

Mistakes can happen. Banding together to avoid criticism ensures bad things will happen in future. Certain politicians are always willing to capitalize on the belief that we maintain public safety by being tough on crime. Recent studies in the United States have shown this is wrong but it is one of those perceptions that just feels right despite it being wrong. It weakens the argument that one is being tough on crime if one has to admit using abusive treatment to do so.

There is presently playing out in our courts a similar battle where faith in our judicial system will be challenged. One side relies on the old notion that imposing tough sentences will act as a general deterrent to reduce crime. The opposing argument is that judges should use restraint as a guiding principle in sentencing. Imposing lengthy sentences shows our courts are being tough on crime. Keeping nonviolent first-time offenders that show promise for rehabilitation from incarceration in the long run, prevents them from becoming hardened criminals and allows them to reintegrate into society and become law-abiding. It is better than having them brandish the criminal label and be disregarded in the future for past deviance. It may seem soft on crime, but it works.

Maybe we should shift our attitudes and act as if there is no line to maintain. It all centres on our ability to show respect for one another despite our differences. If each of us could accept that some of us from time to time make mistakes, we would be less likely to create a caste system where the people unworthy of our respect generate more crime. Let's leave the brutality of incarceration to the truly dangerous people who cannot be rehabilitated.

Q.6
CCJA: ***Given the "need to look to psychiatry and social sciences to assist us in dealing with many of the people who now occupy our jail cells" (p.156), what laws and practices, including enforceable accountability mechanisms would, in your opinion, allow Canada to moderate and improve our current carceral institutions?***

Q.6—John L. Hill:
My biggest disappointment in my practice of law is seeing how many lives have been wasted by imprisoning people when earlier intervention could have prevented them from that fate. As an example, I have interviewed many sex offenders who have victimized children. When I dug deeper, I was shocked to see how many had been victimized themselves as young children. We profess to be a nation that cares for children but I find it deplorable that we do not reach out to the children traumatized in this manner.

I ask them if they reported the actions. Invariably I get the response that as children they felt guilty for having been involved in an act they perceived as being wrong. Alternatively, they were threatened not to tell lest some extreme punishment would follow.

I have an aunt who taught children in primary school. She maintained she could predict which of the children in her classroom would become offenders in later life. Surely, if problems could be spotted at such a tender age, timely intervention could have been employed to assist troubled youth.

Again, I return to the theme that our desire to get tough on crime works to our disadvantage. In my book I write about the David Bagshaw case. Bagshaw as a youth killed Stefanie Rengel and was convicted of murder and sentenced as an adult. He was originally detained in a provincial facility where he had the opportunity to benefit from rehabilitative programs. However, when he turned 21, he was sent to federal penitentiary. The Harper

era tough-on-crime policy dictated that a murder conviction required a minimum stay of two years in a maximum-security institution. Accordingly, Bagshaw was sent to Millhaven where he lost the benefits of the programming in which he had been involved. No one would object if the policy assisted the victim's family in their grief. It did not. It just ensured that Canadian taxpayers would be burdened by increased incarceration costs and receive absolutely no benefit.

I am also concerned with offenders released from institutions. Release plans proposed never include the intervention of a psychiatrist or a psychologist to deal with the trauma of long-term incarceration. We simply expect offenders to emerge from long prison stays as totally reformed and able to pick up and better their lives as though nothing traumatic had happened. Community parole officers are often seen as enforcers of the rules of release and not as assistants in reintegration. Often, released prisoners feel very alone returning to their communities. Would it not be better if the community parole officer was someone with whom the offender could share the pain rather than be seen as the drill sergeant ready to see the prisoner's return to prison?

What is the road to improvement? I can do no better than to indicate my support for the concluding paragraph of Professor Karamet Reiter's book, 23/7: Pelican Bay Prison and the Rise of Long-Term Solitary Confinement: "The isolation of any subset of allegedly dangerous prisoners, in excessively restrictive and fundamentally invisible institutions, enables a special zone of bureaucratic discretion that is not only hard to see but also impossible to regulate. Real reform must question sweeping claims about dangerous prisoners and render concrete walls transparent – making democratic oversight possible again. When that happens, people might decide whether we ever wanted, or needed, these institutions in the first place."

Professor Reiter was of course referring to Special Handling Units in the United States. I think her words have broader application to much of our prison system as a whole. However, I am not as convinced that making correctional systems transparent will achieve the goals Professor Reiter is looking to achieve completely. We really need a change in public attitude that presently believes simply imposing harsher sentences will achieve greater public safety. It is a facile argument and one often exploited by some politicians. Perhaps if our media would emphasize that crime rates are going down and that certain segments of the community need better opportunities for a better lifestyle or hope of social advancement, we could drive the crime rate even lower.

Recently the Police Chief in my hometown announced that the Police Services here would no longer publish the names of persons arrested in press reports of police activities. In some quarters this was denounced as protecting law breakers. What it has accomplished is an end of the rumour mills that have seen certain individuals or minority groups attacked. Mechanisms that are fact-based are far superior to the hunches that many of us use in making our assumptions. ■

RÉSUMÉ

CCJA INTERVIEW with JOHN L. HILL—*PINE BOX PAROLE*: *Terry Fitzsimmons and the Quest to End Solitary Confinement & Other True Cases* (Durvile & UpRoute, 2022).

NANCY WRIGHT
Actualités JUSTICE Report, Éditrice-en-chef

Dans cette entrevue de l'ACJP, John L. Hill (2022) - un ancien avocat de la défense canadien qui a pratiqué et enseigné le droit carcéral jusqu'à sa retraite, défendant certains des tueurs les plus violents du Canada - discute de son récent livre, *Pine Box Parole* (Durvile & UpRoute, 2022), dans lequel Hill suggère que Terry Fitzsimmons ('tueur né') n'aurait jamais tué personne s'il n'avait pas subi la violence de l'isolement, des gardiens et d'autres détenus, Hill considère que l'affaire Fitzsimmons est importante parce qu'elle a mis en lumière l'exploration de la torture mentale au Canada. L'auteur déclare s'être efforcé tout au long de sa carrière, avec des dizaines de collègues, de défendre la cause des droits des prisonniers pour des conditions plus humaines. Il félicite les nombreuses personnes dont le travail a contribué à prévenir les abus dans nos systèmes correctionnels au fil des ans, en particulier le réseau national d'avocats spécialisés dans le droit pénitentiaire au sein de *Canadian Prison Law Association*. Cet entretien avec John L. Hill fournit aussi son compte rendu de la brutalité et d'autres formes de violence dans les prisons canadiennes et son point de vue sur l'Unités d'intervention structurée (UIS) - un système largement critiqué qui remplace l'isolement cellulaire dans les prisons canadiennes (SCC) en vertu du projet de loi C-83 (2019). En outre, M. Hill offre ce qui pourrait bien être un aperçu surprenant aux lecteurs, à savoir que la plupart des avocats de la défense ne sont pas conscients de l'étendue des pratiques de cruauté, d'autres violences et de vente de drogues au marché noir qui existent couramment dans nos prisons. Il réfléchit aussi à la signification d'un nouveau sens du mot « justice » qu'il interprète dans *Pine Box Parole* comme parlant autorité et il discute des origines et des implications de la mince ligne bleue. L'ACJP remercie vivement M. Hill pour cette entrevue franche.

Solitary Confinement in Canada and the Promise of Structured Intervention Units in Canadian Penitentiaries (PART 2)

HOWARD SAPERS
Chair, Structured Intervention Units Implementation Advisory Panel

The Implementation Advisory Panel (SIU IAP) monitors, assesses and reports on issues related to the implementation and operation of Structured Intervention Units. In Part 1 of this article (HR 37.4), SIU-IAP Chair (and former Correctional Investigator of Canada) Howard Sapers discussed the end of segregation in Canada's federal penitentiaries with the passing of Bill C-83 (2019). Part 2 explores the first 18 months of SIU operation, which fell short of the legislative framework's expectations. Drawing heavily on the 2021-22 Annual Report of the Structured Intervention Unit Implementation Advisory Panel (SIU IAP 2022), Sapers elaborates several shortcomings in the SIU operations, including excessive length of placements (especially for prisoners with mental health problems), great discrepancies in the use of SIUs across the regions, issues around prison transfers, Indigenous over-representation, and constraints on the decision-making process of the Independent External Decision-Makers (IEDM).

As reported in Part 1 (JR 37.4) of this series of articles, when corporal punishment was outlawed in the 1970s, the use of administrative and disciplinary segregation (i.e., solitary conditions of confinement[1]) became the main corrective technique in Canada's federal prisons. The increased use of isolating conditions of confinement contradicted mounting evidence about the negative mental health impacts of isolation. By the 1980s the use of segregation was being contested based upon the emergence of new and even more compelling research.

A number of significant reports and reviews between 1996 and 2015 that called for better oversight and increased restrictions on the use of segregation failed to prompt the desired changes: Justice Louise Arbour's findings after conducting an inquiry into the use of segregation for women prisoners in 1996 received insufficient attention; the recommendations of the Working Group on Human Rights and a CSC Task Force in 1996-97 calling for enhanced internal review model and oversight for segregation went nowhere; a 5-year pilot project struck in 2000 to explore independent decision-making in the use of administrative or disciplinary segregation was put on hold in 2004 (and never brought back); and the Canadian Human Right's Commission calls for independent adjudication at women's prisons were outright rejected by the CSC in 2004.

While CSC acknowledged that problems existed, it blamed the legal framework and 'operational realities' including outdated infrastructure, transfer problems, long-term cases management, and prisoners seeking voluntary segregation. These assertions were challenged in court and, in 2019, courts in Ontario and British Columbia found that the use of administrative segregation could be both discriminatory and amount to cruel and unusual punishment. Some thought the fight to end the use of harmful segregation in Canadian prisons was over.

As evidenced by the recent Report of the Structured Intervention Units Implementation Advisory Panel (2022)[2], the implementation of CSC's new system of Structured Intervention Units (SIU) replacing segregation under the provisions of Bill C-83 (2019)

has been fraught with challenges. Correctional Service Canada implemented the C-83 amendments to the Corrections and Conditional Release Act (CCRA) at the end of November 2019. The SIUs were intended to provide cellular accommodation and a set of services for prisoners who – at times - could not be adequately housed in the general penitentiary population. The legislation provided for the infrequent use of the SIUs and presumed short stays. Programs and services were among the legislated promises to prisoners as was a daily opportunity of four hours outside the cell with two of those hours involving meaningful human interaction. Other important amendments included guaranteed reasonable access to non-essential healthcare services and enhanced professional autonomy and independence of healthcare professionals.

Independent External Decision Makers (IEDMs) ensure that decisions related to the confinement of an inmate in a Structured Intervention Unit (SIU) are subject to scrutiny and ongoing assessment throughout this placement. IEDMs are appointed by the Minister of Public Safety and operate at arms-length from the Correctional Service of Canada (CSC). –Public Safety (2022).

A complex, multi-stage set of approvals for transferring and keeping a prisoner in an SIU was put in place. One of the key components of this process was the inclusion of Independent External Decision-Makers (IEDMs). This was added to the original legislation after the House of Commons committee reviewing the amendments recommended independent external oversight. This law also required that data on the operation of the SIUs would be routinely collected, presumably to provide evidence the legislation was having the intended outcomes.

In the summer of 2019, the Minister of Public Safety established a Structured Intervention Unit Implementation Advisory Panel (SIU IAP) of eight people to provide advice to CSC and the Minister on the operation of the SIUs. Not part of the legislation, this second external oversight mechanism for the SIUs was frustrated by the Panel's inability to obtain required administrative data from CSC, which reported it still lacked the means to track and compile data on the new system (IAP, 2021).

At the end of the one-year appointment of its members, the first SIU IAP automatically lapsed during the summer of 2020. Reflecting on never having received the administrative data required for their work, the Panel submitted a report expressing frustration that their mandate ended without being able to make any assessments of how the SIUs were operating. The Minister of Public Safety subsequently intervened, data was shared, and the former Chair of the Panel (Dr. Anthony Doob) and colleagues went on to prepare three reports that highlighted a number of significant problems in the operation of SIUs. A second, renewed SIU IAP was appointed in 2021 with improved Terms of Reference and guarantees of cooperation from CSC. This article is based on the first annual report of the renewed SIU IAP (SIU IAP, 2022)[3].

It would be wrong to minimize the importance of SIUs in the context of Canada's overall penitentiary system. On 13 February 2022 there were 165 prisoners in the SIUs out of a total population of 12,182 prisoners in CSC facilities (1.4% of the total federally incarcerated population that day). This "count" ignores the flow of people into and out of the SIUs. Looking back to the first IAP Report (2021), an estimated 8.4% of those in CSC's facilities during the first 21 months of the SIU regime spent at least some time in one or more SIUs.

Some of the concerns about the use of the SIUs recall problems with the segregation system that the SIUs replaced. CSC's own data show that 75.8% of the stays in SIUs by women in Canada involved Indigenous women despite constituting a mere 4.2% of the overall adult female population in Canada. The findings for Indigenous men, while not as dramatic, are nonetheless troubling. Compared to the overall penitentiary population in each of CSC's five regions, Indigenous people are more likely than others to end up in the SIU. Another overriding concern of the Panel, however, is the lack of explanation about extensive regional and institutional differences in the use of SIUs, which the law says should only be used in the absence of a "reasonable alternative"[4]. SIUs are meant to be the least preferred solution to a problem.

Table B: Person Stays in SIUs by Region.

REGION	TOTAL STAYS IN SIUs PER 1000 PRISONERS IN THE REGION
Atlantic	355.3
Quebec	475.7
Ontario	107.5
Prairie	259.1
Pacific	321.1
CANADA	278.2

The regions are clearly implementing SIUs differently. The variations are too great to be put down to differences in "local culture". Some of the regions have significantly more SIU cells; for example, Ontario has 13.4 SIU cells per 1000 and the Prairie region has 36.3 SIU cells per 1000. Also of concern, more than half (56.5%) of the SIU stays overall exceeded 15 days.[5] For example, about 30% of the SIU stays in Ontario lasted at least 62 days. In Quebec, however, only about 18% were 62 days or longer. Finally, the length of stay in an SIU varies across the reporting period (starting on 30 November 2019), but without any obvious pattern. For example, 32% of the SIU stays in Quebec were for 5 days or fewer, whereas only 10% of the SIU stays in the Prairies were for 1-5 days.

Indigenous prisoners were disproportionately more likely to be transferred into SIUs, and they were also less likely to have very short stays (5 or fewer days) compared to Blacks, Whites, and other groups. Overall, prisoners identified by CSC as having deteriorated mental health problems were especially likely to have very long stays in SIUs (62 days or longer). As with the regional disparities in SIU placements, decisions regarding release from the SIU varied significantly across the IEDMs for reasons that are not clear. Some were less likely to order a prisoner to remain in the SIU and some were more likely.

SIU oversight has also revealed some gaps in the legislation. For example, the IEDM's ability to provide external oversight is constrained by certain provisions, or lack therein, of the *Corrections and Conditional Release Act*. The result is a prisoner stay in an SIU can be 6 times longer than what the Mandela Rules define as prolonged solitary confinement (i.e., more than 15 days) without independent review. Under the CCRA (S. 37.8), a prisoner must be in the SIU for more than 60 days before the IEDM review can even take place, and then there is an additional 30 days allowed to report the decision. The Implementation Advisory Panel (IAP) also found CSC slow to implement the IEDM's decisions, with many prisoners remaining in an SIU cell long after they were ordered released. It goes without saying that independent external reviews of SIU placement must be timely and decisions implemented quickly.

Another key promise of the legislation is that CSC has an obligation to record information about the mandatory offers to leave the cells (i.e., four hours per day, two of which must include meaningful human contact) and the many refusals received. The IAP found that most prisoners did not actually spend four hours out of their cell each day and that the hundreds of refusals by 'long stay' SIU prisoners shed no light on the reasons. Some of our interviews and information derived from IEDM decisions point to the offered activities as having less appeal than remaining in a cell alone. The Panel also estimated that for 1,091 of the 2,071 long-stay prisoners (or 53% of these long stay SIU prisoners), refusals did not explain the failure to get the promised two hours of meaningful human contact.

In the last quarter of 2020, 70% of 'long stay' SIU prisoners (those in SIUs for 16 days or more) missed getting out of their cells on most days (76-100% of their days in the SIU). This "failure rate" was comparable to what it was when the SIUs first opened in November and December 2019. Although this rate dropped steadily and substantially during 2021 from 70% to 34%, the fact remains that 34% of the 'long stay' prisoners in CSC's SIUs missed getting their four hours out of the cell on most days in the SIU.[6] While refusals to leave the SIU cells were much more likely in some regions (e.g., the Pacific region) than in others (Prairies or Ontario), the Panel does not yet have hard data to explain this regional variation.

Part of the challenge for CSC is what to do when a prisoner refuses to leave the cell. Commissioner's Directive CD711[7] suggests that "all reasonable efforts" should be made to provide this time out of the cell. This is arguably because one cannot talk about the use of SIUs without talking about mental health. Yet, CSC transferred many prisoners – 29% of men and 64% of women – that it had identified as having mental health challenges, and this is especially true for those subjected to multiple transfers. Of 161 prisoners, 53% of those so identified and transferred into SIUs on five separate occasions between 30 November 2019 and 13 February 2022 as compared to "only" 24% of those with one SIU stay.

CSC's practice of moving prisoners to SIUs in different institutions and often different regions may recall similar transfers under the old scheme of administrative segregation whereby the prisoner's 'time' was reset, such as with Ashley Smith's frequent transfers, which postponed the initial psychological evaluation mandatory within the first six months of imprisonment. The Implementation

Advisory Panel (IAP) cannot ignore the potential implications for prisoner safety of long stays in SIU, given CSC's statement that "SIUs are about helping prisoners and providing them with the continued opportunity to engage in interventions and programs to support their safe return to a mainstream prisoner population."

The first SIU IAP Annual Report, from which most of the information in this article is drawn, concludes with recommendations to the Commissioner of the Correctional Service of Canada and advice to the Minister of Public Safety. Addressing 14 key areas of concern regarding the operation of SIUs and the future of CSC oversight, the topics include the following:

- Alternatives to SIU Placement
- Length of SIU Stays
- Time Out of Cell
- Meaningful Human Contact
- Inter-Regional Transfer
- Health Care
- Indigenous Prisoners
- Programs/Interventions
- Independent External Decision-Makers
- Infrastructure
- Human Resources
- Staff Training
- Enhanced Accountability
- Future of the IAP

Part III of this article will discuss these IAP recommendations in more detail and review the responses received from the CSC and the Minister of Public Safety. The full SIU IAP 2021/22 Annual Report, and responses from the Minister of Public Safety and the Correctional Service of Canada can be found at **www.publicsafety.gc.ca/cnt/cntrng-crm/crrctns/siuiap-ccuis-en.aspx**. ■

[i] Court of Appeal for Ontario. 2019. Canadian Civil Liberties Association v. Canada (Attorney General). Available at **ccla.org/wp-content/uploads/2021/06/2019-04-26-ONCA-decision-on-2nd-extension-of-ONSC-decision.pdf**.

[ii] Court of Appeal for British Columbia. 2018. British Columbia Liberties Association and The John Howard Society of Canada. Available at **ccla.org/wp-content/uploads/2021/06/2019-04-26-ONCA-decision-on-2nd-extension-of-ONSC-decision.pdf**.

NOTES

1. Various terms are currently in use (e.g., "restrictive housing", segregation, administrative confinement, extended solitary confinement).

2. This article draws heavily on the 2021-22 Annual Report of the Structured Intervention Unit Implementation Advisory Panel (SIU IAP) that monitors, assesses and reports on issues related to the ongoing implementation.

3. Available at **www.crimsl.utoronto.ca/news/reports-canada%E2%80%99s-structured-intervention-units**

4. Corrections and Conditional Release Act (S.C. 1992, c.20), s.34(1)

5. The United Nations' Mandela Rules state that prolonged solitary confinement (solitary confinement for more than 15 days) can "amount to torture or other cruel, inhuman, or degrading treatment or punishment." Hence 16 days or more is a convenient way of dividing "short" from "long" stays in SIUs.

6. We focus on 'long stay' prisoners for the obvious reason that there is more concern about negative impact of isolation for those in SIUs for many days (defined here as 16 days or more) rather than few days (1-15 days).

7. Commissioner's Directive 711: Structured Intervention Units. **www.csc-scc.gc.ca/politiques-et-lois/711-cd-en.shtml**

RÉSUMÉ

Solitary Confinement in Canada and the Promise of Structured Intervention Units in Canadian Penitentiaries (Part 2)

HOWARD SAPERS
Président du Comité consultatif sur la mise en œuvre des unités d'intervention structurée (CCMO UIS)

Le Comité consultatif sur la mise en œuvre des Unités d'intervention structurée (CCMO UIS) surveille, évalue et signale les enjeux liés à la mise en œuvre et au fonctionnement des UIS. Dans la partie 1 du présent article (AJR 37.4), le président du Comité, Howard Sapers, discute de la fin de l'isolement dans les pénitenciers fédéraux du Canada avec l'adoption du projet de loi C-83. La deuxième partie regarde les 18 premiers mois d'activité de l'UIS, qui n'a pas répondu aux attentes du cadre législatif. S'appuyant largement sur le premier rapport annuel (2021-2022) du Comité sur la mise en œuvre de l'UIS, Sapers souligne plusieurs lacunes dans le fonctionnement des UIS, dont la longueur excessive des placements (en particulier pour les détenus ayant des problèmes de santé mentale), les grandes disparités régionales dans l'utilisation des unités spéciales, les problèmes liés aux transferts de prison, la surreprésentation des indigènes et les contraintes du processus décisionnel des Décideurs externes indépendants (IEDM).

MCJA - Annual Crime Prevention Breakfast (2022)

MIKE COOK
Manitoba Criminal Justice Association and Defence Counsel at SCVC Law

MCJA's Crime Prevention Breakfast is held in Winnipeg each November to celebrate Manitoba's Crime Prevention month. This year's 200 guests included Judges, Crown Attorneys, Elected Officials, RCMP Officers, Winnipeg Police Service Officers, Corrections Officials, Treatment Centre Providers, Psychologists and Psychiatrists and other citizens. The 2022 speaker, Mr. Will Gault, shared a story illustrating that drug/alcohol addiction are often predated by trauma and that recovery is possible with the right help. As an adult working as a Security Guard among other jobs, Mr. Gault became lost in addiction. After numerous failed attempts at rehabilitation from alcohol and meth, he found the 210 Recovery Centre. Mr. Gault is now happily married with children and a successful business. The MCJA applauds his inner strength and the never-ending support he received from his family, the police who arrested him and the treatment centre that worked with him. Mr. Cook urges those who will be in Winnipeg next November to visit the MCJA website (www.mcja.ca) and purchase tickets for MCJA's 2023 Crime Prevention Breakfast.

The Manitoba Criminal Justice Association is very proud to recognize Manitoba's Crime Prevention Month with our Annual Crime Prevention Breakfast every November

On Thursday, November 3, 2022, MCJA assembled at the historic downtown Hotel Fort Garry with approximately 200 guests including, inter alia, Judges, Crown Attorneys, Elected Officials, RCMP Officers, Winnipeg Police Service Officers, Corrections Officials, Treatment Centre Providers, Psychologists and Psychiatrists and other citizens concerned about crime and crime suppression in our city.

The 2022 Crime Prevention Breakfast's focus was a local home-grown success story about addiction and rehabilitation. Our speaker was Mr. Will Gault.

Mr. Gault was born in Winnipeg. He was raised by his grandparents, as his mother was a teen morn and had an abusive relationship with Mr. Gault's biological father. There were long-standing addiction issues with his parents. His grandparents loved him, but they had various personal health and mental health concerns. Mr. Gault struggled with mental health and instability in his daily family life.

At age eleven, Mr. Gault wrote to his mother stating he wanted her in his life. She did not reply.

As a young adult, Mr. Gault held various positions, mainly in the Corrections and Security business. He worked many years as a Security Guard, a Security Manager, Loss Prevention Officer, in Protection Services at local hospitals, and finally as a Sheriff Officer. Life was not easy for Mr. Gault as he got older. He initially denied his addiction to alcohol but his employers, family and friends noticed it was a serious concern. Mr. Gault refused any help, and his drinking continued. He spent many nights drinking so late he headed to work still intoxicated. As his addiction grew, he lost his employment, the respect of others and eventually found himself homeless, staying with various people for very short periods of time on their couch.

It is often said in a 12-step program that when trying to recover you must hit your rock bottom before you can start your ascent into recovery. Mr. Gault spent many weeks in various addiction centres. He suffered from severe withdrawal seizures, slept wherever he could lay his head down, and developed delirium tremens typical of withdrawal in chronic alcoholics.

This led to him experiment with drugs and eventually crystal meth. Using crystal meth and drinking 40oz of whiskey a day was leading Mr. Gault to an early grave. The lure of drugs and alcohol repeatedly pulled him back into old habits.

In July 2015, desperate to achieve sobriety, he moved himself into 210 Recovery Centre, which offers structured sober living. It was here that he met his eventual wife. Mr. Gault worked extremely hard at his sobriety and after completing the program, he and his girlfriend moved in with her parents. Now in a real home full of love and support, his life started to blossom. He married his girlfriend, they have two lovely children, and started up a catering business that is doing extremely well.

It was very uplifting for the MCJA Crime Prevention Breakfast's audience to hear such a success story. All too often in the business in which we are all involved, we hear of failure and upset. Will Gault is a beacon of hope for others. If he can do it, so can you be the expression of possibility that always comes to mind when I think of his tremendous success.

I applaud his inner strength and the never-ending support he received from his family, the police who arrested him and the treatment centre that worked with him.

I know that Mr. Gault's story will resonate with other people battling addiction and he will be a trailblazer for many in the future. ■

RÉSUMÉ

MCJA - Annual Crime Prevention Breakfast (2022)

MIKE COOK
Manitoba Criminal Justice Association and Defence Counsel at SCVC Law

Le *Crime Prevention Breakfast* de la MCJA sur la prévention du crime a lieu à Winnipeg chaque année en novembre pour célébrer le mois 'Prévention du crime' au Manitoba. Cette année, les 200 invités comprenaient des juges, des procureurs de la Couronne, des représentants élus, des agents de la GRC, des agents du Service de police de Winnipeg, des responsables des services correctionnels, des fournisseurs de centres de traitement, des psychologues et des psychiatres et d'autres citoyens. Le conférencier en 2022, M. Will Gault, a raconté une histoire illustrant le fait que la toxicomanie et l'alcoolisme sont souvent précédés d'un traumatisme et que c'est possible de se remettre de la toxicomanie et l'alcoolisme avec l'aide adéquate. À l'âge adulte, alors qu'il travaillait, entre autres, comme agent de sécurité, M. Gault s'est perdu dans la dépendance. Après de nombreuses tentatives infructueuses de réadaptation à l'alcool et aux méthamphétamines, il a trouvé le 210 *Recovery Centre*. M. Gault est maintenant marié et heureux avec des enfants et une entreprise prospère. La MCJA applaudit sa force intérieure et le soutien sans faille qu'il a reçu de sa famille, de la police qui l'a arrêté et du centre de traitement qui a travaillé avec lui. M. Cook invite les personnes qui seront à Winnipeg en novembre prochain à visiter le site Web de la MCJA (mcja.ca) et à acheter des billets pour le petit-déjeuner de prévention du crime 2023 de la MCJA.

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Discussion sur la dignité et la désincarcération à la 46e conférence annuelle de l'ICAJ

NATHAN AFILALO
Avocat, Institut canadien d'administration de la justice (ICAJ)

En octobre 2022, l'Institut canadien d'administration de la justice (ICAJ) tenait sa 46e conférence annuelle à Halifax. Les sujets abordés lors de cet événement annuel changent d'une année à l'autre, mais il s'agit toujours d'une question clé touchant le système de justice canadien. Cette année, le thème était la dignité en tant que droit.

En trois jours, neuf panels ont abordé un large éventail de sujets. Les panélistes ont fait le point sur le capacitisme et l'âgisme systémiques dans les milieux juridique et de santé, les atteintes à la dignité subies par les Autochtones dans le système carcéral, les condamnations injustifiées, ainsi que le cadre de l'aide médicale à mourir au Canada. La discussion a permis d'examiner ce à quoi nous faisons appel en invoquant la dignité en tant que droit.

Ce bref article mettra en relief comment les participants à la conférence ont appliqué la notion de dignité, notamment en matière de désincarcération. J'aborderai brièvement la place qu'occupe cette notion dans la jurisprudence récente de la Cour suprême du Canada. Je ferai ensuite état des discussions tenues durant la conférence, en notant à quel point on s'est peu appuyé sur la définition de la dignité établie par la CSC.

LES ENJEUX LIÉS À LA DIGNITÉ EN TANT QUE NORME

La dignité est un élément central du discours sur les droits de la personne.[1] Elle est souvent perçue comme le fondement normatif des droits de la personne et comme un outil d'interprétation des droits constitutionnels.[2] À ce titre, elle se retrouve dans de nombreux documents constitutionnels nationaux, dans leurs préambules,[3] ainsi que dans des instruments internationaux, notamment dans la *Charte des Nations Unies*[i] et la *Déclaration universelle des droits de l'homme*.[4] Elle occupe également une place importante dans le contexte canadien des droits de la personne. L'article 4 de la *Charte des droits et libertés de la personne du Québec*[5ii] énonce un droit explicite à la « sauvegarde de l'honneur, de la dignité et de la réputation ». Dans la *Charte canadienne*, il n'y a pas de droit explicite en matière de dignité. Dans le contexte de la *Charte*, la dignité est plutôt incarnée par la jurisprudence de la Cour suprême du Canada. Il est entendu que c'est une valeur qui sous-tend la *Charte*[6] et que « la protection de tous les droits garantis par la *Charte* est guidée par la promotion de la dignité de l'être humain ».[7] Au premier matin de la conférence, le professeur Cheryl Milne a rappelé que la dignité a été affirmée dans de nombreuses décisions et qu'elle est liée à différentes questions comme la valeur inhérente de chaque individu, l'autonomie et le contrôle,[8] et le respect de la vie privée, entre autres.

Beaucoup d'encre savante a coulé sous la plume de juristes, linguistes, philosophes, etc., pour débattre de la signification du mot « dignité ». Le nœud de l'affaire consiste à savoir si la « dignité » a une signification intrinsèque, ou s'il s'agit plutôt d'un terme redondant qui se réfère simplement au « respect des personnes ou de leur autonomie ».[9] Le débat n'est pas futile. La Cour suprême du Canada s'est prononcée à plusieurs reprises sur les difficultés qui surgissent lorsque l'on fait de la dignité un critère juridique.[10] La courte majorité dans l'affaire Ward a laissé présager la façon dont elle allait trancher la question qui lui était soumise, en déclarant ceci : « Dès qu'elle quitte le domaine des valeurs pour entrer dans celui des normes juridiques, la notion de dignité rencontre de nombreuses difficultés d'application ».[11]

La question à laquelle la Cour était confrontée dans cette affaire était de savoir si les blagues d'un humoriste professionnel faites aux dépens d'un enfant en raison de son handicap portaient atteinte au « droit à la sauvegarde de la dignité » de ce dernier. En concluant que les moqueries ne portaient pas atteinte au droit garanti par l'article 4, la majorité a relevé le seuil d'atteinte à ce droit. Elle a conclu que la jurisprudence démontrait que la portée incertaine du droit à la sauvegarde de la dignité faisait qu'il était enfreint chaque fois que le droit à l'égalité était enfreint.[12] Cela a eu pour effet de rendre la dignité superflue, et son invocation « incantatoire », puisqu'il est difficile de dissocier la dignité du droit dans lequel elle est conjointement revendiquée, en l'occurrence, le droit à l'égalité.[13] Dans la majorité des motifs du juge en chef Wagner et de la juge Côté, la dignité est interprétée comme se rapportant à « l'humanité de toute personne dans ses attributs les plus fondamentaux » et comme étant la « notion même d'humanité » en tant que qualité inhérente à tout être humain.[14] De l'avis de la majorité, la qualité fondamentale à laquelle se rapporte la dignité, et son émergence en tant que norme juridique en réponse aux atrocités commises au début du XX^{e} siècle et durant la Seconde Guerre mondiale, justifiaient un seuil plus élevé et plus objectif, ce qui amenait en retour une portée plus définie.[15] Toutefois, plutôt que d'entrer dans le vif du sujet et de fournir une définition de la dignité, les motifs conjoints des juges Wagner et Côté concluent qu'il suffit de déterminer le seuil de ce qui constitue ou non une atteinte au « droit à la sauvegarde de la dignité ».[16]

LA PERTE DE LA DIGNITÉ

C'est peut-être en raison de cette indétermination même que les intervenants d'une conférence de trois jours sur la dignité ne se sont que peu référés à la sagesse de la CSC. Le premier panel de la conférence a directement abordé la question de la signification de la dignité en droit en tant que norme applicable ainsi que son utilisation dans la jurisprudence de la CSC. Cependant, une fois le panel terminé, les panélistes et les participants à la conférence étaient beaucoup plus préoccupés par les indignités subies par les personnes que par la manière dont le droit définit et exprime la dignité. La discussion sur la désincarcération illustre cette tendance.

Emma Halpern, directrice générale et responsable des services juridiques de l'Elizabeth Fry Society of Mainland Nova Scotia (EFMNS), a expliqué que la désincarcération fait généralement référence à la réduction du nombre de personnes en prison ou en détention. La désincarcération peut également comprendre des mesures visant à réduire ou à éliminer la dépendance à l'égard des systèmes carcéraux et les approches de la justice pénale qui favorisent l'incarcération. Mme Halpern a souligné que par rapport aux taux d'incarcération des Autochtones au Canada, « la notion même de dignité et l'incarcération sont contradictoires ». Patricia Whyte, paire aidante autochtone et gestionnaire de résidence à l'EFMNS, a illustré ce constat en décrivant les abus dont elle a été victime lorsqu'elle était en garde à vue. Mme Whyte avait subi une césarienne peu de temps avant son arrestation et a été laissée dans un état tel que la plaie s'est infectée. Elle a également subi des fouilles à nu alors qu'elle venait d'accoucher. Elle a déclaré qu'après ces événements et en prison, elle avait « perdu sa dignité ». Jennifer Metcalfe, avocate et directrice générale de Prisoners' Legal Services-West Coast Prison Justice Society, qui se spécialise dans les questions de liberté en vertu de l'article 7 de la Charte, a ensuite fourni des exemples poignants de traitement des prisonniers, notamment celui de Joey Toussaint, un autochtone de la nation dénée, et de ses expériences en isolement cellulaire. Metcalfe a parlé de la réalité des prisonniers et des nombreuses pratiques auxquels ils sont soumis, et qui les empêchent souvent de bénéficier de l'aide d'un avocat, ce à quoi ils ont pourtant droit.

Ces atteintes à la dignité abordées par les panélistes ne sont que le microcosme de problèmes de plus grande envergure, bien connus et qui

existent depuis longtemps en ce qui concerne la surincarcération des Autochtones et la façon dont la loi les traite. En mai 2022, l'Enquêteur correctionnel a rapporté que 50 % des femmes détenues dans les prisons fédérales s'identifiaient comme Autochtones.[17] Les Autochtones ne représentent que 5 % de la population. Cependant, plus de 30 % de la population en détention fédérale est autochtone. Le taux d'incarcération des Autochtones au Canada est 9,2 fois supérieur au taux d'incarcération des non-Autochtones. La sur incarcération des Autochtones a été identifiée comme une crise par la Cour suprême en 1999, alors que les taux étaient moins élevés qu'aujourd'hui.

Les panélistes qui ont présenté des exemples de dignité « perdue » ont illustré de manière très précise ce qu'il faut pour « rétablir » ou « préserver » la dignité : un traitement humain et davantage de supervision lors de l'incarcération, et la responsabilisation des intervenants envers les personnes qui purgent des peines. Cependant, ce qui a été le plus fortement souligné, c'est l'importance de moins dépendre des pratiques carcérales, d'utiliser plus largement les principes de Gladue, de financer des programmes de guérison dirigés par des Autochtones, qui sont des actions déjà prévues aux articles 81 et 84 de la *Loi sur le système correctionnel et la mise en liberté sous condition* (LSCMLC),[18] et de leur permettre davantage de purger une peine dans leur communauté.

Patricia Whyte a expliqué qu'elle a « retrouvé » sa dignité lorsqu'elle a pu passer du temps dans sa communauté, travailler auprès d'aînés autochtones et aider des femmes à réintégrer la société après leur sortie de prison. Ces propos font vaguement écho à la récente décision de la CSC dans l'affaire *R c. Bissonnette*.[19] Dans cette affaire, la Cour suprême a conclu que l'article 745.1 du *Code criminel*, qui permettait des périodes consécutives d'inadmissibilité à la libération conditionnelle, contrevenait à l'article 12 de la *Charte*. La Cour a conclu, dans son analyse de l'article 12, que la disposition était contraire à la dignité humaine puisque les contrevenants « ne possèdent pas la capacité de s'amender et de réintégrer la société », ce qui « présuppose de façon définitive et irréversible qu'ils n'ont pas la capacité de se réadapter et de réintégrer la société ».[20] La Cour a affirmé que pour respecter la dignité humaine, le Parlement doit laisser la porte ouverte à la réhabilitation.[21]

CONCLUSION

En tenant compte des commentaires de la CSC dans l'affaire *Bissonnette* et de ceux des panélistes, nous en arrivons à une meilleure représentation de la dignité. La dignité se matérialise par des actions concrètes qui favorisent la guérison des préjudices subis et la réhabilitation des personnes. Bien sûr, il s'agit là d'une autre façon de nommer les « pratiques de justice réparatrice », dont l'esprit anime déjà des affaires comme *R c. Gladue et R c. Ipeelee* et les mesures de détermination de la peine dans le *Code criminel*. Cette acception de la dignité a été largement utilisée dans les discussions à la conférence. Cependant, le fait que l'on en appelle à une plus grande utilisation des principes, mesures et pratiques de justice réparatrice témoigne du fait que le système de justice n'a pas réussi à le faire de manière systématique et globale. Malheureusement, toutes les conclusions ne sont pas nouvelles. Mais pour qu'un refrain devienne accrocheur, il doit être répété en chœur. La conférence 2022 de l'ICAJ a permis aux « choristes » de mieux comprendre les enjeux qui appellent à la mise en place de pratiques de justice réparatrice et la manière dont elles doivent être mises en œuvre.

La 47e conférence annuelle de l'ICAJ, sur « Le droit des frontières », aura lieu à Ottawa du 25 au 27 octobre 2023. Tous les professionnels du droit sont invités à se joindre à la discussion, à prendre connaissance des enjeux actuels et à contribuer à une meilleure administration de la justice. ■

[i] *Charter of the United Nations*, 26 June, 59 Stat 1031. UNT 993.3 Bevans 1153.

[ii] *Charter of Human Rights and Freedoms*, CQLR c C-12

NOTES

1. Christopher McCrudden. 2008. Human Dignity and Judicial Interpretation of Humans Rights. *European Journal of International Law19*(4) at 656.

2. Jacob Weinrib, "Human Dignity and its Critics." 2018. In G. Jacobson, M. Schor (eds). *Comparative Constitutional Theory* at 167. Cheltenham : Edward Elgar

3. *Ibid*.

4. *Charter of the United Nations*. 26 June 1945. 59 Stat 1031. UNT 993.3 Bevans 1153.

5. *Universal Declaration of Human Rights*. 1945. GA Res 217 A (III). UN Doc A-810, at 71.

6. *Charte des droits et libertés de la personne*. 1948. RLRQ c C-12.

7. *R. v. Oakes*, 1986 CanLII 46 (SCC), [1986] 1 S.C.R. 103, p. 136.

8. *R. c. Kapp*, 2008 CSC 41 [2008] 2 RCS 483, au para 21.

9. *R. c. Morgentaler*. 1988. CanLII 90 (CSC). [1988] 1 RCS 30, p.166.

10. Wayne Sumner, "Dignity through Thick and Thin," In Sebastian Muders (ed.), *Human Dignity and Assisted Death*, (New York, 2017) au 52.

11. *Supra note* vii au paras 21-22 par exemple.

12. *Ibid* au para 2. Infra note xii au para 48.

13. Ward c. Québec (Commission des droits de la personne et des droits de la jeunesse). 2021 CSC 43 au paras 53, 54.

14. *Ibid*.

15. *Ibid* au para 56.

16. *Ibid* au para 48.

17. Patrick White. 5 May 2022. 'Shocking and shameful': For the first time, Indigenous women make up half the female population in Canada's federal prisons." *Globe and Mail* **www.theglobeandmail.com/canada/article-half-of-all-women-inmates-are-indigenous**

18. *Loi sur le système correctionnel et la mise en liberté sous condition*. LC 1992, c 20.
19. *R. c. Bissonnette.* 2022 CSC 23.
20. *Ibid* au para 73.
21. *Ibid* au paras 83, 85.

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Discussing Dignity and Decarceration at CIAJ's 46th Annual Conference

NATHAN AFILALO
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In October 2022, the Canadian Institute for the Administration of Justice (CIAJ) hosted its 46th annual conference in Halifax. The topics of this annual event change from year to year but always address a key issue involving the Canadian Justice system. This year's theme was dignity as a right.

Over the three days, nine panels covered a wide range of topics. Panellists discussed updates on systemic ableism and ageism in the Canadian medical and legal systems; the indignities suffered by Indigenous people in Canadian prisons; wrongful convictions, and the framework of physician-assisted death in Canada. The conference provided a forum for discussing and examining what we mean by 'dignity as a right'.

What this short article will entertain is the question of *how* 'dignity' was used by the conference participants, particularly in reference to decarceration. I will begin by briefly discussing the application of the concept of dignity in the recent jurisprudence of the Supreme Court of Canada. We will then turn to the conference discussions to show the overall lack of credence given to SCC's interpretations of dignity.

ISSUES RELATED TO DIGNITY AS A NORM

Dignity is a central feature in human rights discourse.[1] It is often understood as the normative basis of human rights and a tool and for interpreting constitutional rights.[2] As such, it can be found in many national constitutional documents, the preambles thereto,[3] as well as in international instruments, notably in the *United Nations Charter* and the *Universal Declaration of Human Rights*.[4] It is equally prominent in the Canadian human rights landscape. Section 4 of Quebec's *Charter of Human Rights and Freedoms*[5] sets outs an explicit right to the "safeguard of honour, dignity and reputation." In the *Canadian Charter* there is no explicit right to dignity. Rather, dignity is animated in the context of *Charter* rights through the jurisprudence of the Supreme Court of Canada. It has been understood as an underlying value of the *Charter*[6] and that "the protection of all the rights guaranteed by the *Charter* has as its lodestar the promotion of human dignity."[7] On the first morning of the conference, Professor Cheryl Milne explained that dignity has been affirmed in many SCC decisions and is related to various issues such as inherent worth of each individual autonomy and control,[8] and the respect of the privacy of individuals, amongst others.

A lot of scholarly ink has been spilled from the pens of jurists, linguists, philosophers and other in debating the meaning of the word "dignity." The crux of the matter is whether "dignity" can be said to possess a determinate meaning of its own or if it is instead a redundant term simply referring to "the respect for persons or for their autonomy."[9] This debate is far from frivolous. The Supreme Court of Canada has on several occasions spoken out

about difficulties arising when employing dignity as a legal test or standard.[10] The narrow majority in the Ward case foreshadowed SCC's decision on the issue: "Once the concept of dignity leaves the realm of values and moves into the realm of legal norms, many difficulties arise in its application."[11]

The issue the Court faced in that case was whether the jokes made by a professional comedian at the expense of a child due to his disability infringed on the child's "right to the protection of dignity." In finding that the mockery did not infringe the s.4 right, the majority raised the infringement threshold for that right. They held that the case law, by demonstrating the uncertain scope of the right to the safeguard of dignity, has resulted in it being infringed[12] whenever the right to equality was infringed. This has had the effect of making dignity superfluous, and its invocation "incantatory" as it was difficult to dissociate dignity from that right to which it is being jointly applied, in this case, the right to equality.[13] In the majority of the reasons written by Chief Justice Wagner C.J. and Judge Côté S., dignity is understood as relating to "the humanity of every person in its most fundamental attributes" and as being the very "concept of humanity" as a quality inherent to every human being.[14] In the majority's opinion, the fundamental quality to which dignity relates, and its emergence as an accepted value and legal norm in response to the atrocities of the early 20th century and Second World War, warranted a higher and more objective threshold, which in turn provided for a more definite scope.[15] However, rather than going to the heart of the matter and providing a definition for dignity, the joint reasons of Wagner C.J. and Côté J hold that it will suffice to know the determined threshold for what does or does not constitute an affront to the "right to the safeguard of dignity".[16]

LOSS OF DIGNITY

It is perhaps because of this very indeterminacy that the speakers at CIAJ's three-day conference on dignity made little recourse to the wisdom of the SCC. The first conference panel directly addressed the issue of what dignity means in law as an applicable norm (i.e., standard) and its use in SCC jurisprudence. However, once the panel concluded, panellists and conference attendees were far more concerned with the indignities that people suffered than how the law circumscribes and articulates dignity. The discussion on decarceration exemplified this trend.

Emma Halpern, Executive Director & Manager of Legal Services at the Elizabeth Fry Society (EFMNS) of Mainland Nova Scotia explained that decarceration generally refers to a process of reducing the number of people in prison or custody. It may also involve measures to lessen or eliminate reliance on prison systems and on criminal justice approaches promoting incarceration. Speaking to the rates of Indigenous incarceration in Canada, Director Halpern remarked that the "very concept of dignity and incarceration are a contradiction in terms." Patricia Whyte, Indigenous Peer Support Worker and Residential Manager at the EFMNS, illustrated this point by relating the abuse she suffered while in police custody. Whyte had a C-section shortly before her arrest and was left in such a state that the wound became infected. She was also strip-searched just after giving birth. She said she "lost her dignity" after these events and in prison. Jennifer Metcalfe, lawyer and the Executive Director of Prisoners' Legal Services-West Coast Prison Justice Society which focuses on liberty issues under s.7 of the *Charter*, further provided harrowing examples of prisoner treatment, notably, that of an Indigenous man of the Dene nation, Joey Toussaint's experiences in solitary confinement. Metcalfe spoke of the reality of prisoners is that the practices to which they are subjected often prevent them from getting a lawyer, to which they are legally entitled.

The attacks on dignity addressed by the panellists are only the microcosm of larger, longstanding and well-known issues with Indigenous over-incarceration and treatment by the law. In May 2022, the Correctional Investigator reported that 50% of women held in federal prison self-identified as Indigenous.[17] Indigenous people make up only 5% of the population in Canada. However, over 30% of the population in federal custody is Indigenous. The incarceration rate for Indigenous people in Canada is 9.2 times higher than the rate of incarceration for non-Indigenous people. Overincarceration of Indigenous people was identified as a crisis by the Supreme Court in 1999, when the rates were lower than they are today.

Conference panellists offering examples of "lost" dignity gave very clear examples of what "restoring" or "upholding" dignity means: Humane treatment in prison and more oversight in prison and accountability of prison workers to those serving sentences. However, most strongly stressed was less reliance upon carceral practices, more widespread use of *Gladue* principles and funding for Indigenous-led healing programs, all of which are actions already provided for in ss.81 and 84 of the *Corrections and*

Conditional Release Act (CCRA),[18] aiming for more sentences to be served in their communities.

Patricia Whyte explained how she 'regained' her dignity when she started spending time in her community, working with Indigenous elders and helping women reintegrate into society post-release. These statements faintly echo the recent SCC ruling in *R v Bissonnette*.[19] The court found that s.745.1 of the *Criminal Code*, which permitted consecutive periods of parole ineligibility, violated s.12 of the *Charter*. The Court held in its s.12 analysis that the provision was contrary to human dignity because it denied "offenders any possibility of reintegration into society" which "presupposes definitively and irreversibly that they lack the capacity to reform and re-enter society."[20] The Court maintained that to ensure respect for human dignity, Parliament must leave the door to rehabilitation open.[21]

CONCLUSION

Taking the SCC'S comments in *Bissonnette* and those of the conference panellists into dual account, we come away with a fuller expression of dignity. Dignity is materialized through concrete acts that promote healing of harms and rehabilitation of people. Of course, this is simply another way of saying "restorative justice practices," the spirit of which is already driving cases like *R v Gladue* and *R v Ipeelee* as well as sentencing measures in the *Criminal Code*. This understanding of dignity was widely used in the conference discussions. However, the calls that greater use of restorative justice principles, measures and practices be put in place demonstrates that the justice system has failed to systematically and holistically do so. Unfortunately, not all the conclusions are new. But for a refrain to be catchy, it must be repeated by a chorus. The 2022 CIAJ conference provided backup singers with a greater understanding, that they can better chime in on the call for restorative justice practices and how they should be implemented.

CIAJ's 47th Annual Conference on "The Law of Borders" will take place in Ottawa from October 25-27, 2023. All legal professionals are invited to join the discussion, learn about current issues and contribute to a better administration of justice. ■

NOTES

1. Christopher McCrudden. 2008. Humans Dignity and Judicial Interpretation of Humans Rights. *European Journal of International Law19*(4) at 656.

2. Jacob Weinrib, "Human Dignity and its Critics." 2018. In G. Jacobson, M. Schor (eds). *Comparative Constitutional Theory* at 167. Cheltenham : Edward Elgar

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4. *Charter of the United Nations*. 26 June 1945. 59 Stat 1031. UNT 993.3 Bevans 1153.

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6. *Charte des droits et libertés de la personne*. 1948. RLRQ c C-12.

7. *R. v. Oakes*, 1986 CanLII 46 (SCC), [1986] 1 S.C.R. 103, p. 136.

8. *R. c. Kapp*, 2008 CSC 41 [2008] 2 RCS 483, au para 21.

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10. Wayne Sumner, "Dignity through Thick and Thin," In Sebastian Muders (ed.), *Human Dignity and Assisted Death*, (New York, 2017) au 52.

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12. *Ibid* au para 2. Infra note xii au para 48.

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14. *Ibid*.

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17. Patrick White. 5 May 2022. 'Shocking and shameful': For the first time, Indigenous women make up half the female population in Canada's federal prisons." *Globe and Mail* **www.theglobeandmail.com/canada/article-half-of-all-women-inmates-are-indigenous**

18. *Loi sur le système correctionnel et la mise en liberté sous condition*. LC 1992, c 20.

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20. *Ibid* at para 73.

21. *Ibid* at paras 83, 85.

Thomas Mott Osborne, Canada Blackie, and Dynamite

The 1914 Mutual Welfare League Prison Reform at Auburn and Sing Sing

DAVID WARREN CONNELLY

The press turned the sensational story of one of the most feared North American criminals of the early 20th century into Exhibit Number One of Thomas Mott Osborne's prison reform. It is easy to credit whatever good Osborne did at two of North America's largest prisons, the way he was able to woo criminals, with his charm. However, it was Osborne's system – the Mutual Welfare League – more than his considerable charisma, that enabled the League to change lives and improve his prisons to the extent it did.

It is easy to credit Thomas Mott Osborne's charm to explain his success as a prison reformer running two of North America's largest prisons.[1] More likely, it was because the Mutual Welfare League system, which he created in collaboration with the notorious killer John E. Murphy and other felons and so drastically humanized the prison conditions at Auburn in 1914 and Sing Sing in 1915. Like a piece of evidence, this article tells the sensational story of Murphy, one of the most feared criminals better known as Canada Blackie (c1873-1915). Aiming to conduct penological research through lived experience, including his own, in prison.

Osborne made headlines in 1912 quitting politics at the peak of his power and the next year living as an inmate in a New York State prison for nearly a week (Osborne, 1914). He then became the leading Progressive Era prison reformer and, by implementing the Mutual Welfare League, arguably the most important since. Osborne initially concocted a plan to disguise himself, but he and the prison administrators decided trying to hide his identity would put him at risk.

Stunned by the horrific conditions he witnessed, Osborne emerged after his week 'inside the walls' "with a new conception of the inherent nobility of human nature, a new belief in the power of men to respond to the right conditions and the right appeal" (Osborne, 2014, p 10).

> *When a man, treated like a beast, snarls and bites you say, "This is the conduct of an abnormal creature—a criminal." When a prisoner, treated like a man, nobly responds you cry, "A miracle!" What folly! Both these things are as natural as two and two making four.*
> (Osborne, 1914)

North American news outlets of the day tended to pair John E. Murphy and Osborne (1859-1926), making the unlikely duo the subject of much reporting. Both men were brilliant action figures, tall and attractive. Murphy, a rural-Ontario native with coal-black hair and pale skin, was violent outside prison and terrorizing inside. Osborne, a powerful, rich, Harvard-educated New York politician, would seem an unlikely foil for Canada Blackie.

HACKSAW, PISTOL, DYNAMITE

John E. Murphy began making North American headlines in 1909. He was ready to blast himself and three others free from Dannemora, New York's

most isolated state penitentiary. A prisoner ratted, and the men were caught with hacksaw, pistol, and two dynamite sticks. Murphy had fashioned a key to a bathroom whose dynamited wall would have enabled the men to escape. “There never was a more desperate criminal or a more hardened wretch than he”, said the detective who finally nabbed Murphy. He also “had more courage, greater resourcefulness, and keener insight than any man I have ever known, straight or crooked” (Kingston Daily, 1916; Buffalo Evening News, 1915).

1903 — JACK E. MURPHY (AKA CANADA BLACKIE) GETS A LIFE SENTENCE IN NEW YORK

It’s as the brains of the five-man Goat Hinch gang that lands Murphy in Dannemora. After a night watchman is shot to death in Cobleskill (NY), two of the gang get the electric chair and Murphy, captured a year later, a life sentence. After seven years of apparently good behavior, Murphy plots to dynamite himself and his pals free. Murphy’s behaviour in prison had been exemplary, but he told Anne P.L. Field (1915) he couldn’t stand the prison’s “thousand and one petty rules and humiliations”. The sensitive, rebellious Blackie apparently had toed the line for seven years until he would blow himself free.

Less than a year later, still in the general prison population, he makes a gas pipe into a gun fueled by matchhead scrapings and shoots a guard[2]. A court then adds ten years to Murphy’s life term[3] and the prison isolates him in a pitch-black isolation cell for twenty months (Field, 1915, 12-13). His bed is a stone floor, no blankets or pillow, and a chamber pot his only furniture (Field, 1915, 17-18). To stay sane, Murphy gropes for buttons torn and tossed from his shirt. Rats infested the cellblock, so he befriends a feral gray tabby cat, “the first warm living thing I had touched for over five years”, he says, “... No music in all the world was ever so transcending as being purred to sleep” (Field, 1915, 24-25).

By 1911, after transfers to two other New York prisons, Murphy loses the sight in one eye. He spends three more years in isolation at Sing Sing but in the end is sent to Auburn State Prison. There he had daylight, bed, toilet, and access to an outdoor, twelve-foot-square enclosure where his one good eye could see the sky. But by then he has contracted tuberculosis.

Osborne's experience as a ‘prisoner’ and involvement with John E. Murphy, Canada Blackie, started in early June 1913 when a New York governor named Osborne to chair a prison reform commission. Osborne submitted himself to imprisonment, convinced that experiencing incarceration was the only way to adequately prepare for this role, His week inside included one night spent in a dark punishment vault crawling with bedbugs. In early 1914, now with daily access to the prison and its prisoners, Osborne began developing the Mutual Welfare League.

> *“It is easy to read a textbook on civil government and then fancy we know exactly how the administration of a state is conducted; but the actual facts of practical politics are often miles asunder from the textbook theory. In the same way, “the Criminal” has been extensively studied, and deductions as to his instincts, habits and character drawn from the measurements of his ears and nose; but I wanted to get acquainted with the man himself, the man behind the statistics.”*
> (Osborne, 1914, p31).

Murphy may have had only one eye at this point, but it was his insight and of other prisoners that helped Osborne understand what was needed and conceive of the League.

WHAT WAS MATT OSBORNE’S MUTUAL WELFARE LEAGUE?

Osborne’s inspiration for the Mutual Welfare League was the George Junior Republic, a youth institution whose Board of Trustees he chaired (1898-1913). There, in Freeville, N.Y, he had watched wayward children transformed by way of an elaborate system of self-government. The boys and girls elected legislators whose government included civil and criminal laws, police, and courts. The children, many arriving because they were street urchins, gained responsibility and experience working with each other cooperatively and matured into productive, distinguished, adults. Osborne reasoned that giving such children food, shelter, affection and advice is not enough, a person needs liberty to be part of humanity (Osborne, 1916, 76-77).

He frequently quoted the nineteenth-century British Prime Minister William Gladstone’s argument for freedom of the Irish: “it is liberty alone that fits men for liberty.” What Osborne witnessed at the Junior

Republic convinced him that similar experiences would also bring prisoners to end their lawlessness. However, Osborne also attributes his motivation to a book written by a former convict at San Quentin, Donald Lowrie (1902). After reading Lowrie's *My Life in Prison*, Osborne (1914) could no longer in good faith remain "silent or indifferent" as regards "the foulest blot upon our social system".

OSBORNE IMPLEMENTS A LEAGUE AT AUBURN AND SING SING IN 1913

As of 1913, those at New York State along with most other North American felons were still confined to strict silence and unremunerated labour. They were threatened with fetid, infested isolation cells and ad hoc beatings. Their little freedom was tainted by close and often brutal supervision. Osborne's Leagues largely took over supervising the men. At Sing Sing particularly, guards stood back, acting much like neighborhood cops. The League's members organized movies, concerts, sports, clubs (e.g., knitting, choir, and brass band), and such classes as math, mechanical drawing, shorthand, and also any appropriate subject an inmate was suited to teach — such as Italian. League-appointed "sergeants-at-arms" oversaw the rules legislated by the League to maintain order and control; a court led by panel of League-appointed judges regularly and openly adjudicated violations. The panel's one power was to revoke a rule-breaker's League membership and privileges, which included confining him to his cell during off-hours. This motivation to follow the rules was apparently very effective.

Osborne's critics were people typically outraged by his humane treatment of felons. Or they were people who felt their power was threatened by an honest administrator, such as politicians who used the prison to distribute favours and prison contractors accustomed to non-competitive, hugely remunerative deals. In turn, this spirit informed the social norms demanding punishment. Such people plotted and fabricated stories to end Osborne's wardenship and gut the League. They eventually succeeded, though eviscerated Leagues continued at Sing Sing and Auburn until the end of the 1920s.

JACK E. MURPHY DECLARES HIMSELF GOING STRAIGHT

Canada Blackie's gradual and surprising transformation began soon after Osborne's appointment as Chair of the State Prison Reform Commission in 1913. Through the isolation cell's slats, the Auburn warden introduces Osborne to Murphy. Still in isolation, Murphy manages to follow the progress of the League's birth. By Sunday, May 31, 1914, the prison's celebration of Decoration Day, the Warden judged the League mature enough to supervise the men (McLennan, 2008, 342-349). Sundays were the guards' day off, and until that Sunday, prisoners were miserably confined to their cells early Sunday afternoons until Monday mornings. The first day they were supervised by the League, the men were freed into the yard for games, music, and socializing (Osborne, 1916, 179). The day went without a hitch. From then on, the League supervised the men's recreation in the yard on Sundays and weekdays after lunch and supper.

From his isolation cell, Canada Blackie would have overheard the lively commotion of the Sunday, 1914, Decoration Day[4] celebration. The following Tuesday, Murphy hands Osborne a deadly, honed, steel shaft and a crude key fashioned perfectly to unlock his cell. Tell the Warden, he tells Osborne, that "I feel so deeply what he and you are trying to do for the men that I want him to know I'm going straight" (Osborne, 1916, 197-198).

The next day, it took coaxing for Osborne to get Murphy to join the afternoon's recreation in the yard. It would be the first time in years he was among other inmates. "As we stepped into the pure air", Murphy wrote a friend, "I felt as though I wanted to bite chunks out of it". As Osborne escorted Murphy back to his isolation cell afterward, hundreds of men formed into two columns for the pair to pass though. As they do, "the boys start a hand-clapping." Murphy was transferred to a regular cell the next day and soon elected to the League's Board of Delegates and then its Executive Committee.

In late December 1914, Osborne took over Sing Sing but Canada Blackie's new reputation preceded him. Osborne had Murphy transferred to help build a Mutual Welfare League at Sing Sing. Murphy's health was failing, but he managed to circulate in the yard a few hours a week (Osborne, 1915). In February, the governor pardoned the increasingly bedridden Canada Blackie. At 42 years old, on March 20, John E. Murphy died[5]. Nine days later, virtually the whole prison turned out to honor him (NY Tribune, 1915). Osborne concluded that Murphy was "perhaps the most powerful single influence for good" (Osborne, 2018) in both Sing Sing and Auburn prisons.

OSBORNE'S CHARM, IF WE CAN CALL IT THAT, WAS IN TREATING PRISONERS WITH DIGNITY

Osborne was raised in Auburn, a hub of progressive political activity, by the rebellious family that harbored Harriet Tubman and started the women's rights movement in nearby Seneca Falls. Their religion was dignity, equality, and democracy – the same values that underlay the League's belief system. Many prisoners had never before experienced such values. It's what Osborne believed changed many of their lives.

Canadian wardens adopted few of Osborne's innovation. Some formed inmate committees but disbanded them when they disapproved of the committees' leaders and continued building penitentiaries based on the old style in the 1930s (Yaeger, 2018).[6] Few wardens in the United States did much better.

Illustrating some of Osborne's success is a letter he received from a former prisoner a few years later. The ex-convict, Vincent Dario, wrote that he first saw Osborne as just another warden picking "on us poor slobs ..., looking for a 'rep' of some sort" (Letter, 1917). But then Dario watched a disheveled youth ask Osborne something. The warden put his hand on the youth's shoulder and looked him in the eye when speaking. The look "haunted" Dario for weeks and he felt it made him decide to "tune up a bit so as I could understand people". This made him want "to do something for someone and perhaps acquire that look. ... Tom, to-day I am capable of that look. I have work! It was my connection with the League which made it possible. ... You've won and so has the League!" ■

NOTES

1. Osborne served as warden of Sing Sing State Prison at Ossining, NY in 1914 and at the central U.S. Naval Prison at Portsmouth, NH where Naval Secretary Josephus Daniels praised Osborne's transformation of the prison from one of America's most abusive prisons to one of its most humane. Recidivism figures weren't compiled at Sing Sing, however a New York General Sessions judge, William H. Wadhams (New York Sun, Jan. 18, 1916) and two New York Times editions (Jan. 18 and Feb. 15, 1916) said he had "not found one second offender from Sing Sing" since Osborne took the prison over. A Westchester County Research Bureau study (June 18, 1916) reported that parole violations were cut in half during Osborne's term.

2. Some news reports said the guard was wounded in the hand, but Anne P.L. Field, in her *The Story of Canada Blackie* (E.P. Dutton & Co., New York, 1915) quotes Murphy saying it was in a shoulder.

3. In those days, a life sentence meant possible parole after twenty years.

4. Decoration Day would soon be called Memorial Day, and decades later celebrated on a Monday.

5. Blackie's ashes were taken to Auburn, where a similar service was conducted.

6. "Very little was adopted from Warden Osborne's reforms by the Canadian penitentiary service. They continued to build traditional penitentiaries in the 30's, and later allowed various penal presses in prisons and inmate committees. But those inmate committees were not allowed to adjudicate inmate discipline cases, and were often disbanded if the Warden did not like its leadership. See Munn & Clarkson, Disruptive Prisoners: Resistance, Reform and the New Deal (University of Toronto Press, 2021".

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RÉSUMÉ

Thomas Mott Osborne, Canada Blackie, and Dynamite
The 1914 Mutual Welfare League Prison Reform at Auburn and Sing Sing

DAVID WARREN CONNELLY

La presse a transformé l'histoire sensationnelle de l'un des criminels nord-américains les plus redoutés du début du XX^{e} siècle en pièce à conviction numéro un de la réforme pénitentiaire de Thomas Mott Osborne. Il est facile d'attribuer à Osborne tout le bien qu'il a pu faire dans trois des plus grandes prisons d'Amérique du Nord, la façon dont il a su séduire les criminels par son charme. Cependant, c'est le système d'Osborne - la *Mutual Welfare League* - plus que son charisme considérable, qui a permis à la Ligue de changer des vies et d'améliorer ses prisons autant qu'elle l'a fait.

Call for Real-Life Success Stories from the Canadian Criminal Justice System

SECTION EDITOR – DOUG HECKBERT

Have a real-life success story related to Canadian criminal justice to share?

Proposed articles for this new section will feature a variety of content related to the Canadian CJS, including accounts of adult former offenders having served their sentences and successfully re-entered society, usually with the help of corrections staff who have assisted in their reintegration. Other stories could be about victims and their experience in the justice system and how it has affected them. The stories might also focus on individuals working in policing, the courts and non-government agencies working in the justice sector. Those working in criminal justice know the range of stories, both positive and negative.

To enhance the credibility of these stories, where possible, the real name of the person(s) will be used. This will help readers to appreciate that these are real people, not actors or fictional characters in made-up circumstances, and in the long run will also help reduce the stigma about seeking help. Writers/contributors are required to have the express written consent (email is ok) of any individual mentioned.

The length of the article must be 1000-1500 words. If submissions are over-length, they will be cut down by the Editors with author approval.

ANYONE WISHING TO CONTRIBUTE A STORY MAY CONTACT

Doug Heckbert (Section Editor): djheckbert@gmail.com for assistance.
You may also submit your contribution via
Nancy Wright (Editor-In-Chief): ccjapubsacjp@gmail.com.

Appel d'articles portant sur des histoires de réussite dans le système de justice pénale canadien

ÉDITEUR DE SECTION – DOUG HECKBERT

Vous avez une histoire de réussite réelle liée à la justice pénale canadienne à partager?

Communiquez avec
Doug Heckbert (l'éditeur de section)
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ou Nancy Wright (éditrice en chef)
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More Chances to Change

ROBERTO DIAZ & DOUG HECKBERT

Roberto Diaz's abuse of drugs and alcohol reached a point where he was charged with trafficking, proceeds of crime, theft, impaired driving and breach of probation offences. By 2017, he was facing a 3 ½ year sentence in a federal penitentiary. He applied to attend Drug Treatment Court (DCT) in Edmonton, Alberta and 13 months later graduated from Drug Treatment Court a changed man, solidly committed to continuing his journey of recovery. Roberto immediately gained employment with Alberta Health Services as a peer support worker. He also volunteers as a peer support worker with the Drug Treatment Court and works with Parents Empowering Parents, helping youth who struggle with drug abuse and helping parents who struggle to understand what their child is going through. Roberto is enrolled in a BA program at MacEwan University. In September, 2022, he was awarded the Canadian Criminal Justice Association's Restoration Award for having overcome the challenge of his past and making an exemplary contribution towards rehabilitation, restoration and a more humane and effective justice system.

Doug Heckbert (BA, MA) worked as a probation officer, parole officer, prison caseworker, staff trainer, college/university instructor, and researcher. Prompted by a question he was often asked, "What are the people you worked with like"?, Doug wrote *Go Ahead and Shoot Me! And Other True Cases about Ordinary Criminals* (Durvile Publications Ltd. Calgary, AB, 2020). It was through writing this book that Doug connected with Roberto; since then, they have become friends and co-authored articles for the *Justice Report* and social media.

This real-life success story about Roberto Diaz borrows insight from One Drum: Stories and Ceremonies for a Planet by Richard Wagamese (2019), for whom the denial of Indigenous cultural identity came through the trajectory of foster homes and adoption later to manifest as alcoholism, homelessness and prison. Diaz and Heckbert reflect on how we are all one drum that must beat together. Diaz is calling for research into the potential benefits of integrating peer-support into the Canadian criminal justice system.

Based on his lived experience as a former addict, drug dealer and now an award-winning peer support worker and mentor, Roberto Diaz offers insights for the fields of criminal justice, addictions and mental health regarding the effectiveness of initiatives to support people who want to stop abusing drugs and alcohol. What can be done to get more individuals who struggle with addiction to a place of wanting to change? What can be done to reach out and create more chances for change?

Peer support models are advantageous because someone who has been down and made it back up to help people will have a better chance of offering the empathy and understanding needed to get to the heart of the personal issues that lead people to addiction.

One key factor, according to Roberto, is that professionals must be able to understand and meet people where they are at:

> "Being in recovery and working on the front line for four and a half years has opened my eyes to the sad reality of what some of the most marginalized individuals experience day in and day out. They are just trying to survive. Before I recovered, I pushed away those closest to me because I felt change was unattainable and impossible to achieve. For fourteen years, I found myself lost in my addictions, with things getting worse all the time. What impacted me? Helpers who showed up as non-judgmental, caring and compassionate and who accepted me for who I was and where I was at."

Roberto alerts us to the power and impact of labeling – how do staff see and identify potential clients?

> "Our systems would be more effective in creating chances to change if we viewed the individuals we serve as if they were our mother, father, brother or sister, not 'merely' as an addict or criminal. The inconsistency with which we treat human beings who already face many barriers and are living in survival mode leads to mistrust and further alienation."

Another desired professional characteristic is a readiness to show kindness, because this will inspire

gratitude and hope.

> "One of the key elements I found vital in my journey of recovery has been that of gratitude, but gratitude is hard to come by when mental, spiritual, physical and emotional torments ruled my existence; the outlook looked pretty bleak. I really responded positively to kindness from helpers and in return I started developing bits of gratitude."

Roberto stresses the importance of conveying the cruel reality and importance of accountability to make one realize where they are at and accept the hope of change.

> "The insanity of the denial I was in, the lack of accountability I was living and the inability to see anybody but myself made it impossible for me to see where my life was at. I was lying and deceiving, just to get by. Once I turned to substances to cope with the hell that lived within me, it became impossible for me to see that the behaviors I was living turned that hell into an inferno. I could get away with not really having to see my reality and so it took me a long time to face that reality – then I was ready to change. Being provided a chance to see how unwell I had become was necessary for me to start attempting to change. That means people like the ones who worked in Drug Treatment Court were brutal in a kind way as they confronted me to see what I had become – and it worked."

Roberto believes police organizations, courts and correctional facilities must become less alienating and more proactive.

> "We can be more proactive in making chances to change resonate within police organizations, courts and correctional facilities, within the healthcare system and locally within the most marginalized of communities. The efforts required to do so are minimal in relation to the benefit of us all being on the same page. This is crucial because our efforts are constantly being impacted by changes in leadership, government and budgets; and this can be ineffective in creating opportunities for these changes to take hold."

Roberto ties his observations into the bigger picture: Reaching Out / Reaching In

> "I have become "woke" to the reality of what some of our brothers and sisters experience. We should not have the level of suffering that exists within our borders. It's time for our systems to assume the responsibility for reaching out to those in peril in a consistent, caring way as one would reach out to a loved one and offer a chance to see what is going on. Once one feels supported in knowing that there is acceptance where they are at, they can look for services from which to seek support and guidance." And when someone in peril reaches in, to a service or when in conflict with the law, let's ensure they are met by someone who can truly empathize with what happened to get them where they are now".

One way to achieve this may simply be by putting lived experience to work through integration of peer-support workers in addiction centres, police organizations, courts, correctional facilities, and probation services.

WE ARE ALL ONE DRUM

As Richard Wagamese (2019)—who experienced "years of dislocation through foster homes, adoption, alcoholism and cultural denial" (p 79) as well as homelessness and prison, so clearly put it—"The most profound truth in the universe is that we are all one drum, and we need each other." Coming out of this, Richard Wagamese was full of doubt, indecision, confusion and fear. He realized that "If I were to concentrate my energy on the things that were achievable right now within my circle of influence, change would happen" (p 81). Richard's advice to those who are really concerned about an addict is to build a series of small actions and let these actions ripple into something bigger, like recovery – and understand that this will take time. Richard Wagamese's "neglect, abuse and loss of identity" had led him to "living on the street, going to jail, drinking too much, feeling rootless and afraid", but he found help in the spiritual ways of his people. His book, *One Drum*, offers peer support in the way of "simple ceremonies" that can put us on the "path to being healed". ■

RÉSUMÉ

More Chances to Change

ROBERTO DIAZ ET DOUG HECKBERT

Cette histoire de réussite réelle de Roberto Diaz s'inspire de *One Drum: Stories and Ceremonies for a Planet* de Richard Wagamese (2019), pour qui le déni de l'identité culturelle indigène s'est manifesté à travers la trajectoire des foyers d'accueil/de l'adoption et par l'alcoolisme, le sans-abrisme et la prison. Diaz et Heckbert réfléchissent au fait que nous sommes tous un seul et même tambour qui doit battre ensemble.

The CCJA congratulates Miranda Henderson as the recipient of a Mount Royal University scholarship, the benefits of which include CCJA membership and the publication of *Police Body Cameras – The Ethics of Police Misconduct,* Miranda's article-style version of her winning paper, in the *Justice Report*!

Police Body Cameras – The Ethics of Police Misconduct

MIRANDA HENDERSON - CLASS OF 2024
Bachelor of Arts – Criminal Justice, Mount Royal University (Calgary, AB)

Frontline police officers often face challenging and dangerous situations. How they respond is guided not only by legislation and policy but also officer training, experience, and discretion. Sometimes, without considering the consequences, officers engage in larger ethical considerations. This article explores the ethical angst facing an officer whose partner violates policy in the use of their body camera. Different theories of ethical decision-making theories support transparency and accountability, but where in all this does the blue code of silence fit? Ethics education in police training may be a key step in settling police disclosure, transparency, and accountability for public safety.

The implementation of body camera technology in many municipal police services in Canada has given rise to a number of ethical considerations. Body-worn cameras can increase trust between police officers and citizens when properly utilized (Stanley, 2013) and "provide an important protection against police abuse" (p.6), but their use has also brought new public discourse regarding police accountability to light (Laming, 2020). To illustrate a few theories and perspectives on how to determine an ethical choice, this article uses a hypothetical scenario of a police officer grappling with whether or not to report a colleague who has been intentionally failing to turn on their body camera. The fact that different established ethical theories can lead to quite different conclusions makes this choice particularly difficult.

HYPOTHETICAL SCENARIO

An Alberta municipal police officer (Joan) and her partner (Mark) are working doing traffic stops when they pull over a car for speeding. As they exit their police car, Joan notices Mark has not turned on his body camera. The stop is routine. As they return to their car, Joan asks Mark about his body camera. Mark replies he intentionally leaves his camera off for routine activities like traffic stops because he had been reprimanded for using inappropriate language on camera. Mark feels that being a police officer should give him the right to talk to others however he wants, as long as he does not do anything blatantly discriminatory or illegal. Mark claims that if he were to have another complaint filed against him, he may be put on some kind of leave.

Mark also says he has never been asked about missing footage but would claim his camera malfunctioned. Finally, Mark tells Joan he turns his camera on for non-routine events, so there is no risk of losing evidence of criminal behaviour. Joan knows that Mark has a clean record, aside from the reprimand for using inappropriate language. Further, he has been a police officer for six years and is respected by her, their co-workers, and the community. Mark's reasoning initially convinces Joan that not reporting him is the most ethical decision, but after re-thinking the event herself she becomes unsure; is it most ethical to report or not report Mark?

ETHICAL CONSIDERATIONS

The Alberta Provincial Policing Standards manual does not define ethical behaviour but instructs officers to follow their police service's code of conduct/ethics (Alberta Justice and Solicitor General, 2021). Mark's defiance of those rules puts him at odds with commonly held principles informing public policing in Canada. Mark's decision not to routinely turn on his body camera is a measure of disrespect to citizens and implies that not all interactions need to be held to the same transparency, in spite of the rules. In addition, Mark


POLICE

says he would be willfully dishonest (i.e., lie) if he has to justify the missing footage. Mark also fails to acknowledge that his not using a body camera might be unsettling for the citizens he comes in contact with and make them distrust him and, by extension, other officers.

In the scenario, Joan initially reasons that Mark is simply making a value judgment – protecting himself while firm in the belief he is not doing anything to harm others. Further, she does not witness him insulting anyone or doing anything illegal. Mark is committing what Westmarland (2005) calls noble cause rule-breaking, a form of police misconduct where the officer's behaviour is not motivated by financial gain. In one study based on hypothetical scenarios, 50% of police officers queried found it difficult to "break the blue code of silence" by reporting other officers for noble cause rule-breaking) (Westmarland, 2005). The reasoning behind this hesitation was twofold —the perception that an officer would be punished more harshly than a citizen and the belief that losing a colleague to disciplinary leave over a minor problem would work against public interest (Westmarland, 2005) by leaving the community with fewer available police officers.

ETHICAL THEORIZING: DO THE ENDS JUSTIFY THE MEANS?

Nonconsequentialism is an ethical theory about observing the rules associated with performing one's duty regardless of the consequences (Thiroux & Krasemann, 2017). There are two forms - "Act nonconsequentialism" and "Rule nonconsequentialism." Act nonconsequentialism suggests that people can determine how to act ethically by making decisions based on their intuition. This theory would support Joan's initial, 'intuitive' decision that the most ethical course of action was not to report Mark. Act nonconsequentialism would also judge Mark's behaviour as ethical. He believes turning off his camera is the most ethical course of action because it prevents what he considers baseless complaints from being successfully made against him, which could put him on leave and prevent him from helping others.

Rule nonconsequentialism also disregards consequences but suggests ethical behaviour must be determined by ethical rules, duties and/or laws (Thiroux & Krasemann, 2017). Rule nonconsequentialism takes three forms: divine command theory (which will not be applied to this case, as the core values informing policing in Canada are not alleged to come from a supreme power), duty ethics and *prima facie* duties.

Duty ethics is attributed to the German philosopher Immanuel Kant (1724–1804). To act ethically according to Kantian duty ethics, one must "act rationally, in accordance with a universal moral law." (Jankowiak, n.d., para.2). To be considered ethical, an act must pass both of Kant's categorical and practical imperatives, which are philosophical methods for 'morally' evaluating a potential action. The categorical imperative states an action must be universalizable to be ethical, while the practical imperative states that no person may be used as a means to an end (Thiroux & Krasemann, 2017). Kant's reversibility criterion (treat others the way you would like to be treated) should also be considered (Thiroux & Krasemann, 2017). Let's apply these to our scenario involving Joan and Mark.

Joan not reporting Mark can only be universalized into an illogical rule: "no one should report police officers for breaking policy," which would result in police rule-breaking going unchecked, defeating the purpose of having a policy. Keeping quiet about the situation to help Mark stay out of trouble would make Joan become a discredit to her police service. Conversely, Joan reporting Mark is universalizable into a logical rule: "everyone should report police officers for breaking policy". Finally, it may seem like reporting Mark goes against Kant's reversibility criterion (as few people would like to be reported for their misdeeds); but if it was applied to determine what is right for citizens rather than for Mark, the reversibility criterion supports reporting him.

The other ethical theory, *prima facie*, is based in part on Aristotelian moral philosophy and associated with the work of the Scottish philosopher William D. Ross (1887-1971). To act ethically under Ross's theory, people must follow their *prima facie* duties unless serious circumstances compel them to act otherwise (Thiroux & Krasemann, 2017). A *prima facie* duty "is entirely real and self-evident, though it is always contingent on circumstances and never absolute." (Simpson, n.d.). Most municipal police agencies publicly declare guiding principles or core values in their mission statements. Many of these core values overlap with seven qualities Ross explicitly qualifies as *prima facie* duties; fidelity, reparation, gratitude, non-injury, benefice, self-improvement and justice (Simpson, n.d.).

Ross's theory gives more leniency to what is considered an ethical duty than Kant's. For example, Ross's approach permits people not to follow their (*prima facie*) duties in the face of serious extenuating circumstances (e.g., where lying would save a life). While there are consequences to reporting Mark (damage to Joan's social/collegial status, guilt, and the possibility Mark will be put on leave and the police service will lose an officer temporarily), there is little likelihood that reporting Mark will result in harm/death. The consequences are not serious enough for Joan to ethically justify not reporting him. Further, not reporting Mark could lead to the police service losing credibility with the public if his misdeeds were later discovered and revealed, negatively impacting officers and citizens.

ETHICAL DECISIONS CANNOT BE BASED ON INTUITION ALONE

While all of these theories have flaws, both the Kantian and Aristotelian-based theories are superior to Act nonconsequentialism, as this latter cannot be taught and does not account for individuals whose moral compass is skewed. Act nonconsequentialism wrongly assumes our intuition will always be correct (Thiroux & Krasemann, 2017). Act nonconsequentialism is considered flawed as an ethical theory because "the view that humans possess a uniform set of moral intuitions just seems to be false. Or, if there are such intuitions, many of them are relatively weak and subject to corruption" (Hayes, 2002, p.6). Intuition is thus not a dependable way of determining ethical behaviour (Hayes, 2002).

Kant and Ross's theories are not devoid of issues either. Each fails to indicate what should be done when two duties support different decisions (ex. the *prima facie* duties of fidelity and non-injury may be at odds when deciding whether to tell a friend an unkind truth) and they both fail to define important terms (Thiroux & Krasemann, 2017), making them hard to apply to many of the high-stress, complex situations police officers face today. However, both theories provide strong ethical frameworks based upon logic and goodwill, which can be taught to others and realistically foster ethical decision-making (Thiroux & Krasemann, 2017).

CONCLUSION

According to Rule nonconsequentialism, Joan should report Mark's selective use of his body camera—because no dire harm, such as death, will result from not doing so. To implement ethical policing successfully, police services need to strongly articulate and enforce ethical standards. Clearly articulated codes of ethics strengthen and make ethical standards explicit and clear (Westmarland & Rowe, 2018), laying out what the agency/the public expects of officers and giving them a concrete framework off which to make ethical decisions.

It is vital that policing be ethical because of the power imbalance between citizens and police and also the nature of the job; justice is subverted when police act unethically. Police officers can make policing more ethical by reporting officers who subvert their department's code of ethics and policies by acting unscrupulously. This can be difficult, especially if the blue code of silence makes officers believe not reporting the offence might be the right thing to do. Ethics education in police training may be a key step forward in an era that increasingly demands contentious police disclosure and accountability for public safety. ■

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RÉSUMÉ

Police Body Cameras – The Ethics of Police Misconduct

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*Winner of the 2022 MRU-CCJA scholarship award for best Honour's thesis.

Les policiers de première ligne sont souvent confrontés à des situations difficiles et dangereuses. La manière dont ils réagissent est guidée non seulement par la législation et la politique, mais aussi par la formation, l'expérience et le pouvoir discrétionnaire des agents. Parfois, peu importe les répercussions, les agents ont des considérations d'ordre éthique plus générales. Cet article explore l'angoisse éthique face à un agent dont le partenaire viole la politique dans l'utilisation de leur caméra corporelle. Diverses théories sur le processus décisionnel éthique favorisent la transparence et la responsabilité, mais dans tout cela, où se situe le 'code bleu du silence' ? L'éducation en matière d'éthique dans la formation des policiers peut être une étape importante de la divulgation, transparence et responsabilisation des police en matière de sécurité publique.

Waco, Jonestown, Instagram: Deprogramming the World's Largest Cults

MEGAN DAVIDSON

Cult indoctrination is a form of power that can bend people's wills under the right conditions. Canada has seen its share of doomsday religious cults, including the Branch Davidians or Canada's Order of the Solar Temple. Tales of the more extreme cults are now streaming on popular media. People should stop to think, however, that the lures of social media resemble cult tactics and have far reach.

Cult Indoctrination; it's a scary term for anyone but terrifying for those who've had a run-in with a cult. Tales of two of the most extreme cults —The Peoples Temple Agricultural Project and Rajneeshpuram—are now streaming on popular media, such as Netflix's *Waco, Wild Wild Country* and *Keep Sweet: Pray and Obey*, respectively. Given the grotesque fixation on and condemnation of cults in modern times, it is ironic that many of us are at least somewhat enshrined in the world's fastest growing cult: social media.

We tend to associate terms like "mind control", "thought reform", "brainwashing", and "coercive persuasion" with cults and the fringes of society. However, the indoctrination techniques that initiate many cult members are seen in our notifications, likes, and comments. Many popular cult programming tactics use algorithms to bend people's thoughts towards products or ideas by streaming information that supports a specific worldview without giving those targeted much pause for reflection. Deception, dependency, and devotion can be seen as soon as you log into Instagram or Facebook through the onslaught of notifications and updates on the folks who are the most influential.

WHAT IS A CULT ANYWAY?

Many picture cults as religious organizations fed by zealous and charismatic leaders. In reality, "cults are non-traditional religious groups that prioritize individual experience and individual concerns, and that exist outside established religion" (Campbell, 1978). While cults do have a tie to the mystic – via an aura spontaneously created by our own indoctrinated assumptions about the word – a multitude of cults have no genuine spiritual heritage. Each of the many categories of such cults—from commercial to personality to political—hosts a unique display of effective methods to bring in members. The power behind successful cults takes the form of a distinct perverse mysticism enshrouding and alienating those not in the "in-group" and holding a near-dominating influence over those who are.

Canada has many cults—some newly created, such as the Freedom Convoy or even Greenpeace—that fall on this opposite side of the spectrum.

A cult, by definition, is not fixed by denomination or belief but as a social group defined by a common interest (i.e. a personality, religion, philosophy, or goal) (Merriam-Webster, n.d.). Under the law, religious cults, much like church organizations – although some see these as the same – only have to be registered with provincial and/or federal governments if the organization wishes to own land. Leading or being a part of a cult is not illegal in Canada; it is a right under Section 2a (freedom of religion) of the *Charter of Rights and Freedoms*.

However, if a cult partakes in illegal activities, it is liable for any crimes it commits just like any other Canadian entity. Where do "mind control" or "brainwashing" factor into the equation? Mind control is not illegal unto itself, but in some cases illegal techniques to control minds have been used, such as the psychiatric treatments by Dr. Ewen Cameron at the Allan Memorial Institute between 1950 and 1964, which resulted in a class-action lawsuit against the Canadian and US governments, among other parties, for having provided the funding (Consumer Law Group, n.d.).

Intimidation or coercion, if proven, can result in charges under Section 423(1) of the *Criminal Code*. Most cult tactics are very subtle, however, blurring the lines of indoctrination when bringing in new members. The majority of outcry, charges and ensuing publicity about a cult generally comes after members are indoctrinated, the recruiting charade is over, and the damage is done.

WHERE CULT MEETS SCAM: INDOCTRINATION TECHNIQUES AND HOW ARE THEY SEEN IN SOCIAL MEDIA

The programming techniques used by cults are reflected in the approach of social media. Love bombing, for example, constitutes the act of showering inductees with affirmations, flattery, and affection to create a sense of community for the newest member and obtain devotion in order to influence their thoughts in a specific direction. On Instagram, Twitter or Facebook, for example, this tactic takes the form of notifications and Likes or other emoticons that make targets feel the online "community" has been created "just for you" and that "you are wanted". This can conjure individual feelings that support a collective vision of utopia, one which actually separates targeted individuals from their autonomy. In this sense, "love bombing is, then, a very subtle but direct attack on the premises by which autonomy is preserved within a system of discourse" (Halperin, 1982). Like many activities including gambling and ingestion of certain illicit drugs (NLM, n.d.), love bombing affects levels of certain chemicals that naturally occur in our brains to control mood. Love bombing is what happens on dating apps and, like a drug, can cause dependence.

Similar to love bombing, real-life cults by necessity use and embrace partial truths to align reality with the illusions of the idyllic world they are creating "for you". Algorithms are used by Facebook and Instagram to ensure you see more of what interests you. At least that's one way of looking at it. Algorithms can also serve to push misinformation and foster conspiratorial thinking. By exploiting partial truths, cults and social media tap into new members' confirmation biases (i.e., people seek what supports their beliefs and dismiss the rest) and in so doing compound their biases. When people get sucked deeper into a vortex of fake news feeding a cacophony of self-reinforcement, you have a virtual cult. These techniques and many more are used to indoctrinate members in virtual cults, which over time can also reduce the brain's processing abilities and by extension people's ability to make informed choices. Think of the Facebook Avatar, Snapchat's Bitmoji and Apple's Memoji features. Avatars are stylized renderings of what people think they should look like and at the same time, though based on a photograph of the user, make everyone look somewhat alike.

WHAT IS THE IMPACT OF SOCIAL MEDIA'S CULTIC METHODS ON PUBLIC SAFETY?

While such virtual cults 'recruit' members of any age, younger generations are at the most risk of harm from social media. Although mostly mundane, social media trends on TikTok, Instagram and Facebook sometimes stray into the dark and illicit, causing the criminal justice system to act. Trends such as "the Choking Game", or "Tap-Out Game", urging students to choke each other to gain a euphoric high, have caused unsuspecting youth to commit an assault that amounts to manslaughter—for example, the youth in the Kitchener (2021) incident charged with two counts of assault causing bodily harm under the Canadian Criminal Code (Seto, 2021). Furthermore, trends can be seen to cause harm by instigating purposefully illegal activities, such as the "Devious Licks" challenge where students are encouraged to steal school property, with "devious licks" being slang for theft (Sutherland, 2021). Trends in TikTok and other social platforms seem to appear overnight, leaving the justice system scrambling to keep up.

HOW TO DEPROGRAM 101

But what can we do to deprogram ourselves from these perverse technological ploys? How can social media be turned around, so we do not fall into the trap of more exploitative systems, like cults, sucking people into chasing that notification high? Not all is lost; we will not let social media continue to develop into Borgs—cybernetic drones controlled by a hive mind—at least, not with purposeful intervention. By creating healthy boundaries with

technology and, more distinctively, with social media, we can not only mitigate the effects of love bombing and confirmation bias, but we may even learn a thing or two. Assessment tools exist, created by cult experts no less—such as Dr. Steven Hassan (Freedom of Mind, n.d.) and his "BITE" model or Dr. Michael Langone's "Characteristics Associated with Cultic Groups" checklist (Langone, 2015).

Taking sabbaticals from social media and creating personal boundaries by setting time limits can help reduce the addictive effect of love bombing, which controls mood by impacting brain processes. Educating people about confirmation bias and the perils of mind control may encourage them to seek out other opinions. This will not only reduce online vitriol but can also mitigate the extreme polarization associated with cults and cause withdrawal. We must start taking the advice we have so rarely heeded: check online sources, look for other opinions and **do not engage the trolls**. ■

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RÉSUMÉ

Waco, Jonestown, Instagram: Deprogramming the World's Largest Cults

MEGAN DAVIDSON
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L'endoctrinement culturel est une forme de pouvoir qui, dans les bonnes conditions, peut faire plier la volonté des gens. Le Canada a connu sa part de cultes religieux apocalyptiques, notamment les 'davidiens' ou l'Ordre du Temple Solaire du Canada. Les récits des cultes les plus extrêmes sont aujourd'hui retransmis dans les médias populaires. Les gens devraient réaliser, cependant, que les leurres de médias sociaux sont de grande portée et ressemblent aux tactiques sectaires.

Criminology & Sociolegal Studies Students' Association (CRIMSA) at University of Toronto

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University of Toronto's CRIMSA President Sarah Borbolla Garcés and executive team members Micaela Lawrie and Zaynab Jivraj explore the mandate, functioning, and events of the Criminology & Sociolegal Studies Students' Association (CRIMSA) at University of Toronto.
uoftcrimsa.wixsite.com/uoftcrimsa

The Criminology & Sociolegal Studies Students' Association (CRIMSA) is an organization of undergraduates in the Criminology & Sociolegal Studies (CSS) program at the University of Toronto. At CRIMSA, we aim to bring the criminology community together and build stronger relationships between students, staff and alumni by organizing social and career seminars, special lectures, and interesting excursions and tours. Our mandate also involves representing the interests of students in the CSS program to University of Toronto.

At another level, CRIMSA works towards fostering a supportive community through our mentorship program. To ensure those with experience provide advice to new entrants, we pair mentors in their last two years of the CSS program with mentees just beginning their criminology journey. Mentors and mentees meet at least once a month, but we encourage more frequent visits to foster trust. Our aim is to nurture the communication/people skills of the mentors and mentees so both come out of the program knowing how to give advice on navigating the busy and challenging academic path for success in criminology.

At the Criminology Students' Association (CRIMSA), we strive to bring criminology students together in both academic and social spheres. Within such settings, CRIMSA fosters an environment in which University of Toronto students can build communal relations with their peers. CRIMSA is happy to be holding student hub study sessions this trimester with the Centre for Criminology and Sociolegal Studies (U of T). After many younger-year students voiced concerns about what was being taught and how to integrate knowledge, CRIMSA thought the sessions would be a good way of guiding such students toward academic success. These study sessions are a form of community development and empowerment involving our students, the future faces of criminal justice in Canada. A social event in March involved a murder mystery evening. As always, our social events also offer criminology students opportunities to decompress from the stressors of academia while getting to know one another over coffee, coordinated sport activities such as skating, and board games! ■

RÉSUMÉ

Criminology & Sociolegal Studies Students' Association (CRIMSA) at University of Toronto

SARAH BORBOLLA GARCÉS, Président de la CRIMSA (association des étudiantes en criminologie et sociojuridique) de University of Toronto et étudiant spécialisé, Bacc (concentration double: criminologie et sociologie), University of Toronto

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Sarah Borbolla Garcés (Président de la CRIMSA de University of Toronto), avec Micaela Lawrie et Zaynab Kivraj (membres de l'équipe de direction) explorent le mandat, le fonctionnement et les événements de l'association des étudiants en criminologie et études sociojuridiques (CRIMSA) de l'Université de Toronto.

In Memory of Rick Ruddell (Oct. 15, 1961 – Jan. 02, 2023): A renaissance pioneer

NICK JONES
Justice Studies, University of Regina, SK
JOHN WINTERDYK
Retired – Mount Royal University, AB

Rick Ruddell (1961-2023), Law Foundation of Saskatchewan Chair in Police Studies at University of Regina was long respected and will be missed by family, friends, students, and colleagues for his understanding and assistance, as well as his many publications and other vital contributions to Canadian criminal justice especially in the areas of corrections and policing.

Although a quiet and unassuming person, Dr. Rick Ruddell, the Law Foundation of Saskatchewan Chair in Police Studies, was an inspiring and powerhouse academic who was prolific by any metric, with many of his works and books highly regarded and widely used in criminology/criminal justice programs across Canada and throughout the world.

Rick's national and international academic reputation as a stellar academic had a humble beginning. Born and raised in North Battleford, Saskatchewan, Rick was a typical 'prairie boy' who epitomized the stereotypical character of people from that province – hard-working, not bold or outspoken, and always willing to help or support others in need. These basic personality traits characterized him throughout his life.

Rick's illustrious academic career started at the University of Saskatchewan, where he earned a BA in sociology in 1982. He then earned a Bachelor of Social Work at the University of Regina in 1987. He went on to receive a Master of Criminal Justice from New Mexico State where he met one of his mentors, friend, and long-time collaborator's - Tom Winfree. "I knew Rick as a student and colleague for over 20 years. He was a kind, gentle person, possessed of unmatched intellectual curiosity. We worked on several projects that are high on my list of personal and professional favorites, including our US-based corrections textbook and paper on Canadian post-conviction practices." After completing his Master's degree, Rick went to the University of Missouri in St. Louis for his PhD. After graduating, Rick spent several years at California State University (Chico) and then Eastern Kentucky University, where he began to show his academic prowess by demonstrating his penchant for research and information dissemination.

During his tenure in the United States, Rick collaborated with some of the major scholars in corrections and policing and produced an impressive number of ground-breaking studies, primarily in those same areas. Rick Ruddell published over 130 peer-reviewed articles, 14 books, and numerous research reports.

For those of us who knew Rick personally, he was always eager to hear and learn of the work you were engaged in and never failed to offer a hand or collaborate on something should the occasion arise. Many of our meetings with Rick at conferences took place over a couple of cool beverages, and the discussions never veered far from something topical that either he or the people he was speaking with were working on. Rick frequently put his own projects "on the back burner" to assist a colleague.

After spending close to a decade 'south of the border', and then a stint as the Director of Operational Research for Correctional Services Canada, Rick felt a calling to return to his roots – Saskatchewan – with his partner Renu James. As it so happened, in 2010, the University of Regina was looking to hire someone to fill the recently vacated Law Foundation of Saskatchewan Chair in Police Studies position and teach in the Justice Studies program. Nick was on the hiring committee for Rick and recalls the excitement and disbelief at seeing his name amongst the list of applicants. Rick's Curriculum Vitae stood out amongst the others. Although the department has had its fine share of scholars grace its hallways over the years, "hiring Rick was likely one of the best decisions the department and university ever made. His contributions to the academic field, the university, and the community have been nothing less than extraordinary." Bob Mills, retired Superintendent of RCMP F-Division, noted that Rick's policing research truly "hit the mark and filled numerous gaps moving the policing world forward." Rick was also "instrumental in developing strong ties between the policing world and academia in the province of Saskatchewan and beyond." He was one of those rare academics who could bridge the gap between academia and the practical world.

Few colleagues remind us of the best we can be. Retired Chair of the Department of Justice Studies and former President of the Canadian Criminal Justice Association, Hirsch Greenberg, recalls recounting on a personal note: "I could never interrupt Rick from what he was doing. He always had time for a chat; courteous, thoughtful and easy to laugh. He was self-deprecating to a fault. He liked reminding me of Renu's report of seeing me at the dog-park. Rick was every bit such a colleague.

In addition to his academic output, Rick was (despite often appearing reserved and somewhat introverted) one of the program's more sought-after supervisors. Not only did students appreciate the precious feedback he provided on their work, but he also made time to support and guide their academic and professional aspirations. Steve Wyatt, a graduate student of his, states that Rick's "extensive academic experience was evident as he added direction, purpose, and perspective to my research and writing. His unwavering guidance was only overshadowed by his patience, thoughtfulness, and kindness." Another student, Amber Schick expressed her sincere appreciation for everything Rick brought to his work with students. "Having Rick as one of my professors and thesis committee members when I was a graduate student was truly an honour. While grad school can be stressful and overwhelming, Rick's calm demeanor and open-door policy, coupled with his level of passion and expertise, gave me the support and reassurance I needed as I worked to complete my degree. The knowledge he shared and the skills he helped me develop are things I will continue to rely on for the rest of my career, and life in general."

Rick was never one to seek credit or praise for his work. Yet, as John recalls from several conversations with counterparts across the country, they all deeply admired Rick's work and praised his *Exploring Criminal Justice in Canada* as arguably the 'best' Canadian textbook on the topic. And as noted in the tribute by the Dean of Arts at the University of Regina, Risk's 2018 book *Oil, Gas and Crime: The dark side of the Boomtown* represented a unique and 'meticulously researched' insight into 'rural life, crime and human geography'.

Although we might be inclined to measure the contribution of someone's life by what they have done or contributed, especially in the field of academia, Rick's legacy reaches well beyond that. Rick was kind, generous, and supportive throughout his relatively short life. Although always quiet, you knew when he was in the room, and now that he has moved on, his memory, impact, and presence will grace our memories. ■

RÉSUMÉ

Memory of Rick Ruddell (Oct. 15, 1961 – Jan. 02, 2023): A renaissance pioneer

NICK JONES
Études de la justice, University of Regina

JOHN WINTERDYK
Retraité – Mount Royal University, AB

M. Rick Ruddell, (chaire d'études policières de la Law Foundation of Saskatchewan, University of Regina, SK), était grandement respecté et il manquera à sa famille, à ses amis, à ses étudiants et à ses collègues pour sa compréhension et son aide ainsi que ses nombreuses publications et autres contributions essentielles à la justice pénale canadienne, surtout dans les domaines des services correctionnels et des services de police.

Canadian Journal of Criminology and Criminal Justice (CJCCJ)

Revue canadienne de criminologie et de justice pénale

Canadian criminologist **DR. JOHN WINTERDYK** took over as Book Reviews Editor in 2019, successfully steering the section through the pandemic and into 2023. John is retiring from academia after almost 35 years at Mount Royal University (MRU) but remains active in criminology and criminal justice.

The CCJA thanks Dr. Winterdyk for his meaningful contribution to the CJCCJ's Book Reviews section.

CALL FOR APPLICATIONS FOR BOOK REVIEWS EDITOR (ENGLISH BOOKS) – CJCCJ

The *Canadian Journal of Criminology and Criminal Justice* (CJCCJ) is currently inviting applications for the position of English Book Reviews Editor. This voluntary position begins immediately. This call for applications will remain open until August 1, 2023.

The *Canadian Journal of Criminology and Criminal Justice* publishes coverage of the theoretical and scientific aspects of the study of crime and the practical problems of law enforcement, administration of justice and the treatment of offenders, particularly in the Canadian context. Available exclusively online, CJCCJ is owned by CCJA and published quarterly by UTP. The journal accepts and publishes both French and English manuscripts and book reviews.

The Book Reviews Editor will be responsible for working with publishers to have books sent out and for editing/submitting the reviews to CJCCJ's book review secretary for inclusion on the List of Book Reviews (English Books) published in the CJCCJ. The associated reviews are published simultaneously in the Book Reviews section of CCJA's website.

The book review secretary sends the List of Book Reviews to UTP for copyediting and layout and coordinates proofing prior to final publication. The CJCCJ anticipates five books being reviewed for each quarterly issue of the journal.

Those interested in applying for this voluntary position should submit a current curriculum vitae and a brief statement highlighting any previous editorial experience and ongoing scholarly interest in criminology and criminal justice.

Please email your CV and letter to the BR secretary at ccjapubsacjp.com.

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INFORMATION * ciaj-icaj.ca/en - ciaj-icaj.ca/fr

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